



**STATE OF TENNESSEE**  
**COMPTROLLER OF THE TREASURY**  
**OFFICE OF OPEN RECORDS**  
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**Justin P. Wilson**  
Comptroller

March 1, 2013

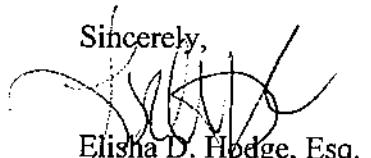
The Honorable Bill Haslam, Governor  
The Honorable Ron Ramsey, Lieutenant Governor and Speaker of the Senate  
The Honorable Beth Harwell, Speaker of the House of Representatives  
State Capitol  
Nashville, Tennessee 37243

Dear Governor Haslam, Lieutenant Governor Ramsey, and Speaker Harwell:

Transmitted herewith is the annual report from the Office of Open Records Counsel and the Advisory Committee on Open Government. This office is be required to submit a report of this kind each year by March 1st.

Thank you for your consideration of this report, and please do not hesitate to contact the office if you have any questions.

Sincerely,



Elisha D. Hodge, Esq.  
Open Records Counsel

**Report to the General Assembly:**

**Office of Open Records Counsel**

**and**

**Advisory Committee on Open Government**

Report to the Governor and 108<sup>th</sup> Tennessee General Assembly

March 1, 2013

## **INQUIRIES AND ACTIVITIES SINCE MARCH 2012**

Total number of inquiries: 1408

### **Breakdown of inquiries**

Citizens: 700

Media: 109

Government: 599

### **Inquiries concerning**

Public records: 1173

Open meetings: 235

Complaints filed regarding alleged open meetings violations: 24

### **Records Inquiries by topic (may be listed in several)**

Fees: 213

Retention of records: 25

General Issues regarding Public Records: 413

Access to law enforcement records: 249

Applicability of specific exemptions: 273

Media Interviews: 30

Presentations: 15

Opinions Released: 4

Internet Forums Approved: 1

Advisory Committee on Open Government Meetings: 2

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## Tennessee Comptroller of the Treasury Office of Open Records Counsel



Elisha Hodge, JD  
Open Records  
Counsel

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### Contact Us:

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### Recent Releases

[12-04 Requests from Corporations and Fees for Records Sent Electronically](#)

### What's New

[Revised Schedule of Reasonable Charges \(1/17/2013\)](#)

[Revised Best Practices \(1/17/2013\)](#)

[Revised FAQs \(1/17/2013\)](#)

[Notice and Agenda for the January 17, 2013 Meeting](#)

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Question	Issue	Resolution
<p>Requested for a copy of the letter regarding the possible violation of the Sunshine Law in Coffee County and wanted to discuss.</p> <p>Emailed from Travis Loller:</p> <p>As I mentioned on the phone, I've been doing a survey of how the state's 200+ boards and commissions comply with Tennessee's Sunshine law. Generally I can summarize what I found by saying compliance is totally inconsistent. Some panels are great, other panels don't even have a webpage and others do post meeting notices but the process of finding them is so convoluted that Joe Citizen would likely give up.</p> <p>Is there anyone at a state-level position who coordinates these various groups and might be able to speak to me about why they do not all post meeting notices in some consistent way?</p> <p>Is there one state level coordinator for these boards and commissions or is that handled on a department-by-department basis?</p>	<p>A citizen filed an open meetings complaint against the Coffee County Commission.</p>	<p>I sent an open meetings letter to the County Commission.</p> <p>Per your request, please see the attached.</p>
<p>Wanted to discuss the open meetings letter that was sent yesterday and he also asked whether or not the open meetings act was triggered when the HR Director and the chairman for a committee met with an employee who had filed a complaint against another employee with the Mayor's office</p>		<p>No; the open meetings act is only triggered when multiple members of a governing body meet to deliberate towards or make a decision on public business. We also discussed the letter.</p>
<p>If the commissioners re-do this vote, will they still be in violation of "Sunshine Law" if they have a motion that simply asks for a yea or nah "to recommend John Doe, the person selected by secret balloting? In this case, the balloting is still secret....because the public has not had access to the previous balloting...A yea or nah vote of some kind is in the plan for the "cure"...but should not each applicants' name have to be presented again and voted for or against, for the voting to be public?</p>		<p>I was interviewed about the open meetings act generally and what this office does.</p> <p>In order for the Commission to "cure" any possible violation that occurred on March 1, 2012, there has to be "new and substantial reconsideration" of the issue that they took a vote on at the March 1 meeting. The courts have said that there cannot be just a rubberstamping of the decision that was made in secret. So, there should be significant discussion about the issue before a vote is taken.</p> <p>I forwarded this information to the County Attorney.</p>
	<p>Citizen needed help determining who she needed to request minute meetings and notices for the Jackson Municipal Regional Solid Waste Board.</p>	<p>Called the Health Department in Madison County and spoke with Brent Lewis (731-423-6020) who gave me the names and numbers of several different people. I called Corrine back and we discussed what she was looking for and I referred her to John Newman who is the chairman of the Board and also the Madison County Trustee</p>

Question	Issue	Resolution
	<p>Citizen had some questions about executive session and what is and is not allowed during executive session. Said that he is writing a story for sunshine week and needed some background information. Referred him to a couple of cases.</p>	<p>You might also want to look at Van Hooser v. Warren County Board of Education, 807 S.W. 2d 230 (Tenn. 1991). It is also a Tennessee Supreme Court opinion. As I said when we spoke, I will be happy to answer any of your questions for a story, but Blake will need to be involved if you decide you want comments from this office.</p>
	<p>I was interviewed about a meeting held by the Johnson City Council on March 1 where the members went into executive session with their attorney without giving notice.</p>	<p>I told the reporter notice for an executive session was not required, but explained exactly what is allowed to occur in an executive session. Told him that there was no information that led me to believe that there was any deliberations during the executive session.</p>
	<p>I made a mistake with regard to changing our annual meeting. I just found out our CEO has now decided not to change the date. However, I still would like to talk to you with regard to the policy/requirements for notice of an annual meeting to receive public comments from interested parties about TTDC's most recent annual report.</p> <p>Thanks for taking time on the phone. As promised, attached please find our by-laws, amended by-laws and related documents. As you might recall from our brief conversation, TTDC would like to move our annual meeting to early May from the month of April due to the heavy workload of managing the inaugural</p>	<p>I spoke with him about the best way to advertise the meeting. Prominently on the web page, in the Plaza, and on the Open Government site. I gave him Lola's contact information. Also discussed the fact that the annual meeting and the annual public hearing both needed to be noticed, but the charter nor the TCA requires the annual public hearing to be held at a certain time.</p>

Question	Issue	Resolution
<p>I have scanned your opinions on the website and did not see one on the issue of whether an agenda may be amended during a meeting, to add items that did not appear in the meeting notice. I frequently advise cities not to do this, as the public has the right to know before a meeting what items will be discussed, and amending the agenda after a meeting starts appears to me to violate the law on notice. Have you ever issued an opinion on this issue? Would you be inclined to do so? If an official opinion is too much to put on your plate right now, could you send me a line in an email stating your opinion on the issue, so I can cite to you as a source?</p> <p>The problem – many cities have an item on their meeting agendas that permits “amendment of agenda” at which time council members may add items to that meeting agenda and then take those matters up in the same meeting. Does this pose a problem under the Public Meetings Act notice requirements?</p> <p>I have advised cities that if it is something like a resolution honoring the boy scouts for work in the city, or some other honorary type of action, it is probably OK, but no ordinances, votes or matters of substance should be added unless the meeting notice published states that the matter is to be taken up by the governing body, so the public is informed. This is a continuing issue in many cities, so our guidance would be very helpful.</p>		<p>An opinion on this issue was released on 3-16-2012.</p>
<p>Is a copy of a video recording of a public meeting of Board of Mayor and Aldermen something that can be requested through Open Records?</p>	<p>Warren County needs to redistrict again because there is a problem with the 1st plan that was passed. This office is going to help with the minor change and plans to meet with one Commissioner to accomplish this. Is there a requirement that a public meeting or public hearing be held?</p>	<p>Yes, as long as the meeting is recorded and the tape is maintained, you can request a copy of it.</p> <p>I reviewed the redistricting statutes and did not see any requirement for a public hearing or a public meeting as long as multiple members of the Commission are not meeting with COT staff. The only public meeting that is required to be held is when the Commission approves the plan. I do think that it is important for the Commissioner to report back to the full Commission at public meetings any progress that is being made on the plan.</p>

Question	Issue	Resolution
<p>Last year East Ridge Council appointed a member of council as a liaison to work on the budget with staff. They said they felt that only one council-member should be involved otherwise it might violate the open meetings act. When staff is having meetings on preparing the budget are council-members free to attend or would this violate the open meeting laws? If they have a budget meeting and more than one council-member is in attendance and has input, would that meeting have to open to the public?</p>		<p>The open meetings act is only going to be triggered if multiple members of the Council deliberate towards or make a decision on public business, as such, it is the opinion of this office that at any meeting where multiple members are giving their input, the meetings should be adequately noticed and open to the public. With regard to whether or not additional Council members can be present and observe the meetings between the liaison and staff, I do not suggest that this occur, because of the perception this creates and the natural desire that the others will have to discuss what they are hearing, which could easily lead to a violation. While this type of situation might not in- and- of itself be a violation of the open meetings act, it could easily lead to one. I think a better practice would be for the liaison to go to the meetings and report back to the entire Council at the Council meetings.</p>
	<p>I am the news editor for the Weakley County Press, a bi-weekly newspaper located in Martin, TN and member of the Tennessee Press Association. Our publication covers affairs related to Weakley County in Northwest Tennessee. During a scheduled Weakley County Commission meeting held beginning at 5:30 p.m., Monday, March 19, members of the commission announced they would meet in executive session to discuss litigation concerning the county and the City of Martin. The session was listed on an agenda, which had been disbursed to members of the media Monday, March 12 as well as to commission members. Not seeing the county's attorney present, Mr. Jeff</p>	<p>I wrote the Commission an open meetings letter and emailed her a copy of the letter per her request a couple of days later.</p>
	<p>Citizen requested the minutes for the Meeting on the 13th and has not received a response.</p>	<p>Given that the request was made on the 14th and it was mailed, it does not appear as though the time frame will be up until Monday, so if there has been no response by Monday, let me know.</p>
	<p>County Executive received the open meetings letter and wanted to discuss.</p>	<p>Discussed with him the law regarding executive sessions and he admitted that the county attorney was not present but said that the violation was not deliberate.</p>

Question	Issue	Resolution
<p>My husband has worked for our city water department for over 10 years and is the water superintendent. Last week while doing garbage pickup for the city after a heavy rain a couple of times he had to pull off the shoulder of the road. It was only 3 or 4 feet off the road, which is in the city right-of-way, but the tracks were left. One of the times he had to pull over was at a city council member's house. That council member then went to another council member's house, called another council member to come over and discussed my husband leaving tracks in his yard. The 3 council members were seen by other people. Yesterday my husband and the mayor went to see the council member to get things straightened out. The council member was very rude and when my husband started to just get back in the truck to avoid a confrontation the council member proceeded to cuss him and verbally assault him, still, my husband acted professional trying to avoid a fight. Then the council member informed him that him and the other 2 council members he had talked to had made the decision to fire him in the next city council meeting. So the decision to terminate my husband was made in a private meeting on the side of the road. Is this legal and what should we do?</p>		<p>My general practice when I get a letter involving an allegation of a violation is to write the entity a letter letting them know that this office has received a complaint about a violation. The complaint will set out what the law is and what I suggest the governing body do to remedy its violation. I will write the letter and try to get it out today. You all might want to contact the City Attorney's office and the Mayor's office as well.</p>
		<p>I was not present in State and Local this afternoon, but I am aware of the conversation that occurred. Here is a little bit of information to help address the questions asked.</p> <ol style="list-style-type: none"> <li>1. This office has not established any guidelines for what constitutes "adequate public notice." The OORC was given the authority to establish fees for public records and guidelines related to those fees, but not the authority to establish guidelines for open meetings.</li> <li>2. Deliberation is not a term that is defined in the statute, but there is a fairly recent court opinion where the court opines on what constitutes deliberations. The case is <i>Johnston v. Metropolitan Government of Nashville and Davidson County</i>, 320 S.W. 3d 299, 312 (Tenn. Ct. App. 2009).</li> <li>3. The statute also does not contain a definition of what constitutes "adequate public notice." There is a body of case law that looks at this issue with regard to special called meetings and body of case law that examines the issue with regard to regularly scheduled meetings. Basically, the courts have said that there should be a totality of the circumstances approach taken when determining whether notice is adequate and the analysis is fact specific. Almost all of the open meetings cases quote the Tennessee Supreme Court in <i>Memphis Publishing Company v. City of Memphis</i> which said, "We think it is impossible to formulate a general rule in regard to what the phrase 'adequate public notice' means. However, we agree with the Chancellor that adequate public notice means adequate public notice under the circumstances, or such notice based on</li> </ol>

Question	Issue	Resolution
<p>Would you please email your answers to the questions I ask yesterday. If I remember correctly we talked about the Commission getting together to work on the budget as well as meeting with zoning to work on precincts.</p>		<p><b>Resolution</b></p> <p>Good morning. Based upon our conversation yesterday, I would suggest the following with regard to the action that the Washington County Election Commission should take:</p> <p>1. Staff for the Commission should check with each Commissioner to determine whether or not the Commissioners intend to participate in the meeting with Zoning relative to the precincts. If multiple members do intend to participate in the meeting and assist with the development of a plan, notice does need to be provided to the public. Given the fact that the meeting is on Tuesday, I suggest that you post notice in as many public places as possible (court house, city hall, library, election commission office, etc.) and I also suggest that if you have radio stations that can make the announcement, you have that done as well. The notice will need to specifically state what business the Commissioners will be taking up during this meeting. If this has not been done yes, it needs to be done ASAP.</p> <p>2. With regard to establishing regularly scheduled meetings, I suggest that the Election Commissioners have as an agenda item discussing and establishing regular meeting dates. Once the members discuss and vote on a regular day and time and location, and if the vote passes, I suggest that you publish a notice of the schedule in the newspapers that will reach all interested citizens. I also suggest that they discuss and vote upon where notice is going to be published (in the newspaper or in the election commission office and other public locations). If the decision is made not to post in a newspaper, I would add to the</p>
<p>I am concerned about a possible violation of open meetings laws in Fentress County and the newly elected charter commissioners. Five [5] people were elected and the election certified. According to law, they were to meet to elect officers on the 5th weekday after election certification, but did not meet until six [6] days after certification and also held first meeting. This is the only time they have advertised a meeting. In a news report on the radio and in the newspaper, there was to be meetings on April 10th and 17th, no time and place, only a news report. Also is there supposed to be a time and place convenient to all the people? They scheduled first meeting at the courthouse at 10:00 A.M on a Tuesday morning, at the court house on the same day as Sessions court is going on. Also can a husband of one member, who is also an attorney, give free advice to wife and group?</p>		<p>An open meetings letter was sent to the Charter Commission.</p>
	<p>A newly formed committee will be meeting the first week of May, what does he need to do with regard to posting notice?</p>	<p>We discussed the various public locations (courthouse, library, and other public buildings) that notice can be posted. Also discussed the fact that he can use the internet version of the newspaper and the radio station to get the notice out. Told him that since these are special called, the notices would have to be specific to what was going to be discussed or voted upon and nothing else outside of the notice could be discussed or voted upon. We discussed posting the notice within 5 to 7 business days from the meeting and the fact that the notice was not required to be on any certain size paper, but it did not need to be obscure, it needed to be big enough paper and front that people could see and read the content.</p>

Question	Issue	Resolution
<p>The newly elected Assessor of property is asking that his campaign manager be put on the equalization board is this ok to do?</p>		<p>I forwarded Kelsie Jones, Executive Secretary of the State Board of Equalization, your question and he provided me with the following information:</p> <p>Members of the county board of equalization are appointed by the county commission, and need only be adult taxable property owners in the county who are not otherwise employed by a city, county or state. There are limited exceptions to the employment restrictions.</p> <p>In answer to the specific question, anyone, including the assessor, can nominate candidates for the county board. Those appointed by the county commission, must take an oath of impartiality, and the assessor should be mindful to avoid the appearance of bias in appointed members of the board.</p>
<p>Attached you will find a draft copy of the HSDA Performance Audit. This is a confidential audit at this point and cannot be shared with the public. The Comptroller's Office is sharing the applicable sections of the "Observations and Comments" Section with the Departments of Health and Mental Health so they can comment.</p> <p>Staff will meet tomorrow to review the audit and begin trying to identify any supplemental information that we need to submit prior to the audit becoming final. Audit Manager Diana Jones and Auditor Lisa L. Williams are available if the Audit Committee would like to meet with them to discuss the audit. If the Audit Committee does meet with them, it will need to be in a "closed to the public" session since the audit is confidential at this point. We did this once before in 2004 or 2005 to discuss the audit of the Health Planning &amp; Advisory Board and Health Services &amp; Development Agency. I have asked Jim to research what notice we will need to give to the public that we will have a closed audit committee meeting.</p>		<p>Assuming that the Audit Committee was established in accordance with the provisions of Tenn. Code Ann. Section 4-35-101 et seq., Tenn. Code Ann. Section 4-35-108 should provide you some guidance as to how the notice needs to be handled and the meeting conducted, if the Board or the Committee decides that it wants to meet with the auditors.</p>
	<p>The Board had a meeting a week ago and a request was made for the handwritten minutes from the meeting. Is there anything that requires the minutes to be approved before being provided?</p>	<p>No, the handwritten minutes need to be provided, but I would stamp or indicate somewhere on the minutes that what is being provided is a draft, but do it in a manner that does not conceal the contents of the minutes.</p>

Question	Issue	Resolution
	<p>The City wants to submit a plan for an Internet Forum and has some questions. 1.) Does the City have to hold a public hearing on using the forum or will a public meeting with time for the public to comment suffice? 2.) Does there need to be a written agreement with the Library in order to have a computer for the Forum there? The library does require a library card, and so we were also thinking about having the public computer in the City Council's office, but people would have to go through security and up to the 4th floor.</p>	<p>The statute does not require a public hearing, that was something that one of the entities that submitted a plan had in their plan, so I just ask the question. I suggest either getting the written agreement with the library that individuals who want to only access the forum do not have to have a library card or put it in the City Council office. I suggest getting the agreement because the statute says that the entity utilizing the forum has to provide reasonable access and in my mind that should not mean that a person has to get a library card that he or she might or might not want to be able to get in order to observe the process.</p>
<p>The Town Mayor won't allow citizens to speak at the meetings anymore. Is that a violation of the open meetings act?</p>		<p>I explained to him that a regularly scheduled meeting that is not a public hearing, and the public does not have the right to speak. There is nothing in the open meetings act that gives the public the right to speak and the case law speaks to citizens being able to participate by observation, but not having the right to speak. Also gave him the COT web address so that he could send his concerns about any fraud, waste, or abuse.</p>
<p>Complaint received regarding Fentress County Commission not having minutes.</p>		<p>Open Meetings letter sent.</p>
<p>1) Does Tennessee Law require government meetings to have a prepared written agenda? 2) If the answer is yes to that question, does Tennessee Law require said agenda be available to the public? 3) If the answer is yes to that question, does Tennessee Law specify a minimum time prior to a meeting the agenda be available to the public?  What I am trying to determine is whether local government bodies can meet in regular or special session absent a prepared agenda, and if there is a prepared agenda, whether it has to be made available before the meeting convenes?</p>	<p>He believes that the auditors for the COT are trying to get the school board members to meet in violation of the open meetings act.</p>	<p>We discussed the fact that if the meeting is for informational purposes only and there is no deliberation or decisions being made, then the meeting will not trigger the open meetings act. But I advised that the members have to be very careful about saying anything during the meeting because the line between the exchange of information and deliberations can easily be crossed.</p> <p>See the attached email with the response to these questions.</p>

Question	Issue	Resolution
<p>I have a couple of questions concerning ER budget process. Before asking my questions I think the time line will help you understand my concerns.</p> <p>Time line:</p> <p>First vote on the 2012/2013 budget was on the agenda for April 26, 6:30 pm meeting.</p> <p>At that meeting the motion to table and have a public workshop passed Workshop scheduled for May 7th. First reading of budget moved to May 10th meeting.</p> <p>Since the workshop is a called meeting, they may decide to vote first reading then. I am not sure if that was decided. For that reason I am not clear if May 7th or May 10th will be the first vote.</p> <p>Friday morning, April 27th, Times Free Press classified has budget figures and announcement of Public Hearing for May 10th at 6:00 pm, before the 6:30 council meeting. The figures did not include beginning and ending balances by fund and did not include number of employees. I have attached a copy</p> <p>What are the requirement of the Open Meetings Act?</p> <p>Does this office provide information to officials about what is and is not appropriate to say in public meetings?</p> <p>Is there anything in the law that requires that minutes are typed?</p> <p>I have several questions about the correct way to notice a meeting and when a special called meeting could be held if notice was posted today.</p>		<p><b>Resolution</b></p> <p>1. It is my understanding that the East Ridge City Council operates under the provisions of Tenn. Code Ann. Section 6-56-201 set seq. when it comes to the budget process. The pertinent portion of Tenn. Code Ann. Section 6-56-206 reads:</p> <p>(b) (1) The governing body of each municipality shall cause to be published the proposed annual operating budget and budgetary comparisons of the proposed budget with the prior year's actual figures and the current year's estimated figures, which information shall include the following:</p> <p>(A) Revenues and expenditures for the following governmental funds: general, streets/public works, general purpose school and debt service;</p> <p>(B) Revenues for each fund shall be listed separately by local taxes, state of Tennessee, federal government and other sources;</p> <p>(C) Expenditures for each fund shall be listed separately by salaries and other costs;</p> <p>(D) Beginning and ending fund balances shall be shown for each fund; and</p> <p>(E) The number of full-time equivalent employee positions shall be shown for each fund.</p> <p>(2) The publication shall be in a newspaper of general circulation and shall be published not less than ten (10) days prior to the meeting where the governing body will consider final passage of the budget.</p> <p>There is nothing in the statute that dictates when the public hearing has to be I discussed with him the fact that multiple members of the same governing body could not meet and deliberate towards or make decision on issues unless they do it at an adequately noticed public meeting.</p> <p>No, that type of issue needs to be addressed by the county attorney. I always advise people to be cognizant of what is said or written because it could become open to the public, but that is the extent of the etiquette training done by this office.</p> <p>Not that I am aware of - neither in the election law nor the open meetings act.</p> <p>See the attached email with the response.</p> <p>We discussed Tenn. Code Ann. Section 8-44-101 et seq. and the case law related to special called meetings. We also discussed the fact that the notice would need to be very specific and they Commission could only do what the call specified as the intended purpose of the meeting.</p>
	<p>Citizen requested information related to the open meetings and public records acts.</p>	

Question	Issue	Resolution
<p>Are council meetings taped? If not, when and who decided that council meetings would not be taped? Email I got from City manager Gobble. This is the second council meeting in a row that meetings weren't taped. I specifically asked Mrs. Qualls before the last meeting and she said that she had batteries, indicating that the meeting of April 27th would be taped. Bad batteries were the excuse she gave for the previous meeting of April 12. Mrs. Hodge, they just spent \$19,000.00 a couple of months ago to correct this problem</p>		<p>Yes, as a matter of practice the council meetings are taped. Two recent meetings were not taped due to a malfunction of the recording system. A new recording device was obtained to correct the problem. Diane was taking notes as a backup for the minutes. I think that it is important to state that the meetings are not required to be recorded. However, if the City is saying that they are being recorded, then the recording should be available. I called Ms. Qualls earlier today and left her a message indicating that I needed to speak with her about your request. She has not called me back. I will follow-up tomorrow, because if there is no recording, that needs to be provided to you in writing. I will contact you once I have an opportunity to speak with Ms. Qualls.</p>
<p>Questions about commission meeting voting.</p>		<p>See the attached email response to the questions.</p>
<p>Citizen had questions related to the notice required for a special called meeting and asked for information related to what the law says regarding minutes.</p>		<p>We discussed the notice requirements for the special called meeting and discussed the statutory provisions related to minutes of meetings.</p>
<p>Letter - complaint about Fentress County Board of Commissioners</p>		<p>See attached responses to the letter.</p>
<p>If an entity has a regularly scheduled meeting, is an agenda required?</p>		<p>No, there is nothing in the case law or in the act that requires an agenda for a regularly scheduled meeting.</p>
<p>I attended a meeting last night[5-22-2012] at Jamestown, TN. I observed the following at this meeting. People were told not to speak until the meeting was over, so what the people had to say was not on the record. The meeting was taped by a private individual and removed when the meeting was adjourned. It was suggested that meetings be advertised by putting a sign in front of the courthouse, a couple of stores and city of Jamestown city hall. They refuse to advertise in our weekly paper, which would reach more people. We were also told they would put whatever they wanted in the charter and if the people did not like it, they could NOT vote for the charter or file a lawsuit and pay for it themselves. Is this legal? They do not want the county attorney at their meetings and argued with Judge about legal issues and what they said. They said they would conduct these meetings according to Roberts Rules of Order, but they are not doing it.</p>		<p>See the attached open meetings letter.</p>
<p>I have a board member/city commissioner who would like to attend a regular scheduled utility board meeting and/or city commission meeting by phone. She will be unable to attend in person, but she still wants to call in and vote on any issues that are on the agenda. In reviewing TCA 8-44-109, it references electronic communication. Is this allowed?</p>		<p>No, this is not permitted for members of a utility board and/or city commission pursuant to Tenn. Code Ann. Section 8-44-108. The only members of governing bodies who are currently permitted to participate (vote) in a meeting through electronic means are members of state level boards, commissions, etc. and the City Commission for the City of Belle Meade. Tenn. Code Ann. Section 8-44-109 addresses a governing body's ability to set up an Internet Chat Forum to discuss issues. However, even after going through all of the necessary steps to establish a forum, voting is still only permitted in an adequately noticed public meeting. Please note that there are only certain types of governing bodies that have the ability to establish a forum.</p>

Question	Issue	Resolution
<p>Is there any law that would set the time public meetings could be held ? Meetings for the public should be held 7:00 p.m. so it would easy for most people to attend.</p>		<p>No, there is nothing in the law that sets out the time of day a meeting is required to be held. The time that a meeting is held is an issue that is left to the sole discretion of the entity meeting, unless there is something specific in the charter, bylaws, municipal code, etc. that governs the entity.</p>
<p>The Mayor has been meeting with one county commission member about various issues, is this permitted?</p>		<p>Even though the Mayor is a non-voting ex-officio member of the Jefferson County Commission, he is a member of the governing body who has the right to make recommendations to the entire County Commission just like any other member. It is the opinion of this office that anytime two members of a governing body, with governing body defined as "the members of any public body which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public body on policy or administration," meet and deliberate towards a decision or make a decision on public business, the meetings are required to be open to the public and adequate notice of the meeting must be provided to the public.</p>
<p>Marie Kempf from the Murfreesboro Post will be calling you about interviewing Elisha for a story.</p>	<p>Tennessee Housing Development Agency memo from Ted Fellman, Executive Director, 3/19/12, to THDA's board of directors indicates, "The ad-hoc Strategic Planning Committee (Brian Bills, Robyn Askew and Ralph Perry) have met once and will meet again with the THDA senior executive staff this afternoon (March 19). We will have an update on their activity thus far at the Board meeting on Tuesday afternoon." Bills (THDA Board Chair), Askew (THDA Board Grants Committee chair) and Perry (THDA board tax credit committee chair) are all THDA board members. This appears to be in violation of the Tennessee Open Meetings laws, as these meetings were not made available or open to the public on</p>	<p>Declined to take part in the interview based upon the rules of professional conduct.</p> <p>An open meetings letter was sent to THDA.</p>

Question	Issue	Resolution
	<p>At a special called meeting on January 11, 2012, the Lexington Board of Aldermen and Mayor met privately with their attorney, Mr. Owings, and CFO, Sue Wood to discuss a current lawsuit. According to the posting and the write-up in the newspaper, no vote was to be taken at the private meeting. In essence, a vote was taken since an appeal was made to the lawsuit and no public meeting was held to vote on the subject. The case was appealed. Then at the next regular meeting of the Mayor and Board of Aldermen on 2/7/2012 (minutes available), two aldermen stated that they wanted the record to show that they called John Owings, the attorney, to state that they did not want to appeal the</p>	<p>An open meetings letter was mailed to Mayor Pierce.</p>
<p>The county put notice of the meeting in newspaper but the newspaper did not attach the agenda. What does she need to do?</p>	<p>I spoke with Mr. Moore and he says that he actually want to file a complaint about an alleged meeting that took place in late summer 2010 (did not have any more specifics about date or time) that involved the Rutherford County Mayor, Commissioner Peay, the County Attorney, and Doug Demosi. He said that the subject of the deliberations that occurred was real estate at 2700 Yeals Road in Rutherford County.</p>	<p>The meeting needs to be postponed or cancelled until the agenda is published with the notice. I also suggest that the agenda be placed in the text of the notice and not separate and apart from it because that will make it difficult for it not to be published in the future.</p>
		<p>I spoke with Mr. Moore for some time trying to determine exactly what information he had for purposes of advising him on whether or not this was even an open meetings issue. He said that he knew for a fact deliberations had occurred and he had been provided that information from Commissioner Peay. I asked whether or not this discussion occurred after the lawsuit was filed and could it have been attorney-client privileged and he said he was not sure if the lawsuit had been filed yet. I asked him what if anything would the County Commission be voted on related to the mosque and the decision that the Planning Commission made and he said he was not sure, but that they deliberated on an issue that could have come before the County Commission. He indicated that the Mayor tried to persuade Commissioner Peay about what happened at the May 24, 2010 Planning Commission meeting. I told him that I wanted to look at what if any authority the County Commission would have over the approval of the plan and touch base with the County attorney's office. Called Jeremy and left a message. We played phone tag until June 27, 2012. On June 27, I sent an email to Josh asking him to clarify what is anything the County Commission would have had the authority to vote upon related to the approval of the site plan by the Planning Commission. On June 28, 2012, I spoke with Commissioner Peay (330-1537) who indicated that no deliberations took place on any issue that the County Commission has or could have voted upon. He said that he has been very public about the fact that he met with all of the individuals named in the complaint to voice his concern about the fact that the</p>

Question	Issue	Resolution
The county commission has recently added time to the agenda that allows the public time to speak on issues. Is there a requirement in the law that gives the public the right to speak?		In most situations, no. There are certain situations in the statute where a public hearing is required, but outside of those situations, the public has the right to be present, but not to speak, so what the county commission has done is provide the citizens with an opportunity to be heard that the law does not require.
	The chairman of the Commission has been ill and he canceled the last meeting and there is a meeting scheduled for Thursday and the Commission needs to meet. What needs to happen to ensure that the meeting is not cancelled.	We discussed the fact that there is a vice-chair and I suggested that staff call the members and determine if there is a quorum and if there is the Commission meet with the Vice-Chair presiding so that the business can be addressed.
Under Judges order #3, permanent injunction is entered against defending county officials from taking any further actions or from permitting any third party from taking any further actions inconsistent with this Order. Is it a violation for the Commission to meet in executive session?		In my opinion no, as long as the members are meeting to discuss threatened or pending litigation and their conversation stays within the parameters set out in the case law.
	The Rutherford County Planning Commission is planning to go into executive session to discuss with their attorney the legal options related to the Mosque case. Is that another violation?	No, because the executive session between an attorney and the clients related to threatened or pending litigation is an exception to the open meetings act as long as no deliberation occurs or decisions made. I also explained that while the Planning Commission noticed the executive session, that was not required
A resolution passed to put referendum on ballot to raise sales tax 1%. The action was rescinded and the issue will be brought up tomorrow night. This issue is not on the agenda and there is no "other business" section on agenda. Should the issue be voted on to get election commission to put on August ballot?		In my opinion if agenda items are spelled out then no. If there is time, the Commission can have a special called meeting and if not the issue needs to wait until a later ballot.

Question	Issue	Resolution
<p>1. Does the notice for a meeting need to outline the resolutions being adopted? (He went ahead and added them since I was out of the office.) and 2. In order to bid out some automatic meters (over \$1 million) does ad need to be run separate from the bid request or just the bid request---i.e. an ad announcing plans to bid out?</p>	<p>I am currently seeking the office of Mayor for the town of Rutherford. In the process of speaking to the towns people, I am hearing that the current board is breaking the sunshine law because they are discussing issues between themselves outside of scheduled meetings. I am not sure they are breaking any laws but I would appreciate if you could give me some insight into what the law says about discussions outside scheduled meetings or tell me where to find that information. Thanks for any help you can provide. Larry Davidson</p>	<p>The relevant part of Tenn. Code Ann. Section 8-44-102 reads: All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of Tennessee. (b)(1) "Governing body" means: (A) The members of any public body which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public body on policy or administration . . . Based upon this language, anytime two or more members of a governing body meet and discuss an issue that is before or could come before the body for consideration, the meeting has to be open to the public and the public has to have received adequate notice of the fact that the governing body is going to meet. There are very few exceptions to this provision. The most common exception is when a governing body meets with its attorney regarding threatened or pending litigation. The members can give the attorney facts and the attorney can give the members legal advice, but any decision or deliberations toward a decision has to take place at an adequately noticed public meeting.</p>
		<p>The only specific notice provision that I found is in Tenn. Code Ann. Section 9-21-609(b) and it reads: If the capital outlay notes will be sold at competitive public sale, then the local government shall publish a notice of sale at least five (5) days prior to the date on which the capital outlay notes are to be sold, either in a financial newspaper having national circulation, or via an electronic communication system that is generally available to the financial community. The notice of sale shall set forth the time, date and place of sale, the maximum amount of capital outlay notes to be sold, the maximum interest rate, the maximum discount, if any that will be permitted, in dollars or as a percentage of par value, and the basis upon which the capital outlay notes will be awarded. If the principal amount of capital outlay notes to be sold is not greater than five million dollars (\$5,000,000), then the notice of sale may be published either as set forth in this subsection (b), or solely in a newspaper having general circulation in the local government.</p>
	<p>The Cannon County Commission certified the referendum question and is sending it to the election commission today to place on the ballot. Can they place it on the ballot and then ratify their action at their next meeting given that the meeting scheduled for today does not have this issue in the notice or agenda?</p>	<p>I would not suggest it. The language in Tenn. Code Ann. Section 2-4-304 speaks to the commission setting the date for the question to be placed on the ballot and that can only be done through a vote and I do not suggest that the members vote on this issue today given the content of the agenda and notice. We discussed the commission meeting on Monday.</p>

Question	Issue	Resolution
<p>As a member in good standing in a non-profit P.U.D. community a records request for Board minutes should not take over a month! I am still waiting to receive April Board meeting minutes. I would like to inquire about how your office could help. I would like to inquire about accountability/enforcement options to have the Board of Directors or our management company, provide official corporate records in a more timely manner. I have contacted several Board members and our Board Secretary to learn that they do not have copies of the requested corporate board meeting minutes for 2012. (see enclosed) Your suggestions for next steps would be appreciated.</p>		<p>After we spoke today, I called the Real Estate Commission within the Department of Commerce and Insurance and asked about the regulation of HOAs. I was told that the Real Estate Commission does not regulate these entities and they are unaware of any State agency that does. I was told that HOA's essentially "self-regulate." The individual that I spoke with said that they often get inquiries related to HOA's and they advise people to seek a private attorney to pursue any non-compliance issues. I also looked on the Secretary of State's website for a form that would allow you to file a complaint against the nonprofit. I found several forms, but none that were applicable to your needs.</p>
	<p>I discussed with Ms. Miller the letter that was sent regarding the alleged open meetings violation.</p>	<p>Ms. Miller indicated that she did not feel that it was a "big deal" for the three members of THDA BOD to meet in Knoxville and review the strategic plan and develop suggestions on the new plan that is being worked on because they had no authority to make any recommendations to or decisions for the full board and the matter would be vetted later by the full board once the suggestions from both staff and the three members of the ad hoc strategic planning committee evaluated and either rolled in or not the draft that the full board would have to vote up.</p>
	<p>The Budget Committee for the County Commission said in a public meeting it would not meet this week and that was reported in the newspaper and Monday afternoon a notice was placed in the courthouse for a meeting to be held on Tuesday night.</p>	<p>Called the County Executive and the reporter who wrote both stories and the Executive called me back and told me that he had inadvertently posted the notice and he would call around and make sure that everyone know that there was not going to be a meeting.</p>

Question	Issue	Resolution
<p>Is there any law that prohibits me from videoing the city council meetings? I would be using a small video camera from my seat without fanfare or distraction?</p>		<p>Good morning. No, there should not be an problem with you recording with a small video camera from your seat, as long as the recording does not disrupt the meeting in any way. The issue of whether or recording equipment could be banned from meetings was addressed in Tenn. Att. Gen. Op. 95-126 and part of the final paragraph of the opinion reads as follows: Under Article I, Section 19 of the Tennessee Constitution, a city council may only regulate access to its public meetings in a manner that reasonably serves public safety and welfare, or its ability to conduct orderly and efficient proceedings. Based on the authorities discussed above, it is the opinion of this Office that these interests would not be deemed sufficient to justify a total ban on video and photographic equipment at city council meetings or on photographing those present at the meeting. The breadth of the proposed total ban goes well beyond that which is reasonably related to the city's legitimate interests. This Office is further of the opinion that city governing bodies may regulate the use of such devices, but only in a manner reasonably calculated to serve the public safety and welfare or the interest in conducting efficient and orderly public meetings. For example, a city council may prevent cameras from being operated in a manner that actually disrupts a council's proceedings, that presents a danger to the public safety, or that otherwise prevents the council from conducting an orderly and efficient meeting. Moreover, a city board would not be required to make special provisions in order to accommodate such devices.</p>
<p>Were Comptroller exit conferences ever incorporated into the Open Meetings Act or are we still operating under that 1999 AG's opinion as our authority for keeping such closed to the public?</p>		<p>No, there is no exception for exit conferences because the Tennessee Open Meetings Act is only triggered when multiple members of a governing body deliberate towards or make a decision on public business. As long as the members are not deliberating towards or making decisions on public business and the exit conference is for informational purposes only, the exit conferences do not have to be noticed or open to the public. But if the exit conference is not going to be noticed and open to the public, the parameters of the meeting/exit conference need to be very clear to all involved so that the governing body does not cross the line intentionally or unintentionally and violate the Act.</p>
<p></p>	<p>The commission voted at its last regularly scheduled meeting to have a special called meeting to discuss one specific issue. Now several members want to add an issue to the notice before it is posted. Is that permitted?</p>	<p>See the attached email response.</p>

Question	Issue	Resolution
<p>A few days ago I e-mailed you concerning guidelines about aldermen discussing city business outside board meetings. The information you gave me was that two or more board members could not discuss anything that might come before the board outside of a scheduled meeting. That being the case, I now have another question. What if any are the guidelines concerning two or more members of the same board being in the same family? Also, could you give me some information or tell me who to contact regarding the boards authority in setting the salary for the mayor and aldermen. Especially those regarding the lowering of such salaries.</p>		<p>The same law is applicable. The members would be precluded from deliberating towards or making decisions on public business outside of an adequately noticed public meeting. Here is a link to the Tennessee Public Records Act that we have on this office's website.  <a href="http://www.comptroller1.state.tn.us/openrecords/pdf/Open%20Meetings%20draft8-44-101.pdf">http://www.comptroller1.state.tn.us/openrecords/pdf/Open%20Meetings%20draft8-44-101.pdf</a> I think that the best resource for you on the salary issue is the Municipal Technical Advisory Service (MTAS). The contact information for MTAS is: 600 Henley Street Suite 120 Knoxville, TN 37996-4105 phone: 865.974.0411 fax: 865.974.0423  <a href="http://www.mtas.tennessee.edu/public/web.nsf/Web/Home?OpenDocument#">http://www.mtas.tennessee.edu/public/web.nsf/Web/Home?OpenDocument#</a></p>
<p>I wanted to let you know that I have finally rec'd the correct DVD of the April Board meeting. I rec'd it either June 11 or 12th. My computer was being repaired or I would have contacted you sooner. Thank you for your assistance in obtaining this for me. Will all of this information be included in your report that you present annually, so something can be done so other families don't continue to encounter the same issues?</p>	<p>He has been appointed to the IDB and wanted to discuss notices. He said that his thoughts are that they will place an initial notice in the paper and then post around the county after that.</p>	<p>I told him that they might want to post in the paper and say from this point forward, this is where we will post. Also make the same announcement at the meeting and utilize the radio and the Internet for the IDB which is in the works to post notices.</p>
<p>I need some answers before a special session of the county commission tomorrow. Our county is currently in search of a new EMS Director. Last week I learned that "Interviews" were held to work towards a recommendation to the full commission this week. The interviewers chosen by the County Executive included 4 county commissioners and two people from the outside. There was no notice given on the meeting and apparently, the public was not allowed in the meetings. Reading the Open Meetings Act on its face, this appears to be a violation of the Act. A group of commissioners met with the County Executive in a meeting, behind closed doors, to make a recommendation to the full commission. Can you clarify on this? My other question involves the nominee that will be presented to the full commission tomorrow night. The County Executive is telling everyone that he will present who he is nominating for EMS Director at the special session tomorrow night. Does there not have to be more notice than this on an appointment as important as this? The resolution has been sent out to commissioner blank. I don't think this is right. This would mean that commissioners would have about 2 minutes to research the nominee and decide to vote for or against them.</p>		<p>You are welcome. The open meetings complaints that this office receives are each reported to the General Assembly in the annual report. The public records complaints received are presented in aggregate totals to the General Assembly. Here is a link to last year's report for your review.  <a href="http://www.comptroller1.state.tn.us/openrecords/pdf/20120301OpenGovernmentReport.pdf">http://www.comptroller1.state.tn.us/openrecords/pdf/20120301OpenGovernmentReport.pdf</a></p> <p>There are two Attorney General opinions that deal with members of a governing body conducting interviews. The two AG opinions are Tenn. Att. Gen. Ops. 81-513 and 96-040. There is also a case that addresses whether or not a committee set up by the dean of a school that makes recommendations only to a dean is subject to the Open Meetings Act. The case, <i>Fain v. Faculty of College of Law of University of Tennessee</i> can be found at the attached link.  <a href="http://tn.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19770311_0002.TN.htm/gx">http://tn.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19770311_0002.TN.htm/gx</a>. With regard to the notice issue, Tenn. Code Ann. Section 5-5-105 reads: (a)(1) The county mayor has the power to convene the legislative body in special session when, in the county mayor's opinion, the public necessities require it. (2) Upon written application to the chair of the legislative body by the county mayor or by a majority of the members of such body, then in that instance, it shall be mandatory for the chair to call a special session of such body. (3) The convening date of such body shall not be more than fifteen (15) days nor less than forty-eight (48) hours from the time of the filing of such application with the chair. (4) The provisions of this subsection (a) shall not apply to counties of Class 1 as established by § 8-24-101. (b)(1) The county mayor shall be authorized to call a special session of the county legislative body for emergency purposes only by publication in a newspaper published in the county, and by personal notification to the members of the county legislative body at least two (2) days before the time of the convening of the county legislative body, in any county that authorizes its county mayor to act in</p>

Question	Issue	Resolution
<p>The 911 Board voted to pay a former employee her vacation out and that of her daughter and then they rescinded because one of the members sent an email that he was sorry he missed the meeting, but felt like they needed to reconsider. Was the email a violation of the open meetings act and can the Board resend a vote?</p>		<p>I am not sure about the resending issue, but with regard to the email exchange, I do not believe that was a violation because the first email does contain a lot of facts and a brief statement of opinion, but the response was purely factual.</p>
	<p>Citizen had an inquiry regarding the notices and the actions of the Lawrence County Commission and whether or not either violated the open meetings act.</p>	<p>I sent a letter to the Commission chair and the County Attorney.</p>
<p>Just letting you know the Chairman and County Attorney were presented with your letter and ignored it. They conducted the meeting as always. As for the Sunshine Law violation, I brought that up but no one seemed to care. The County Attorney said in his opinion, the commissioners could sit in on interview and give their opinions on the applicants. I cited the AG opinions and what you said, to no avail. The nomination, however, did fail for the lack of vote. It required ten votes and 5 commissioners were absent, 3 passed and 1 voted no. The nominee only got 9 votes. Is there any way this commission can be called out for this blatant disregard for the law? I am fighting a lonely battle down here.</p>		<p>At this point, this office does not have the statutory authority to take any further action. I will report the alleged violations to the General Assembly in my annual report. I will also make County Audit aware of the issues. You might also want to contact the individuals who represent you in the General Assembly about these persistent issues. At this juncture, any citizen with standing has the right to bring an open meetings violation lawsuit against the Commission in an effort to further address these issues pursuant to Tenn. Code Ann. Section 8-44-101 et seq.</p>
	<p>What does an audit committee have the authority to do in a public meeting or outside of a public meeting?</p>	<p>With only the limited information in your email, here are my thoughts: The Local Government Modernization Act of 2005 permits local governmental entities to establish audit committees when certain conditions exist. Pursuant to Tenn. Code Ann. Section 9-3-405(b) the responsibilities and duties of the audit committee should be established in a resolution approved by the Benton County Commission. I would first look at the resolution to find out exactly what responsibilities and duties the County Commission conferred upon the audit committee (which were required to be approved by the Comptroller's Office). Additionally, the law sets out the reason that an audit committee can go into executive session and how an audit committee can go into executive session. The portion of Tenn. Code Ann. Section 9-3-405 relevant to this part of the analysis reads: (d) All meetings of an audit committee created pursuant to this chapter shall be subject to the open meetings provisions of title 8, chapter 44, except, upon a majority vote of those members in attendance for the public portion of the meeting, the audit committee may hold confidential, nonpublic executive sessions to discuss the following items: (1) Items deemed not subject to public inspection under §§ 10-7-503 and 10-7-504, and all other matters designated as confidential or privileged under this code; (2) Current or pending litigation and pending legal controversies; (3) Pending or ongoing audits or audit related investigations; (4) Information protected by federal law; and (5) Matters involving information under § 9-3-406 where the informant has requested anonymity. (e) The presiding officer shall announce during the public</p>
	<p>When can the county commission go into executive session?</p>	<p>See attached email.</p>
<p>Citizen had questions about the July 2, 2012 Cannon County Commission meeting.</p>		<p>See the attached response.</p>

Question	Issue	Resolution
<p>I am the city attorney for Lewisburg. I have been asked by a councilman about the legality of work sessions used by the council prior to regular meetings to discuss upcoming issues. His concern is whether the work sessions are a violation of the Open Meetings Act? The work sessions are published and notice is given to the media to inform the public if the public wants to attend. Have you been asked to review this issue? Do you see any problems under the Open Meetings Act so long as adequate notice is given?</p>		<p>It is the opinion of this office that there is not an issue with holding work sessions where members deliberate towards decisions or even make decisions on public business as long as adequate public notice is provided (and I would suggest that notice not only be sent to the media who may or may not publish the notice unless an ad is paid for, but some guaranteed method of publishing notice to the public be used) and minutes are recorded and made available to the public upon request. I do think that it is important to note that Tenn. Code Ann. Section 8-44-103(a) reads, "Notice of Regular Meetings. Any such governmental body which holds a meeting previously scheduled by statute, ordinance, or resolution shall give adequate public notice of such meeting." So, unless these "work sessions" have been scheduled by statute, ordinance, or resolution, they are special called meetings and the notice requirements for special called meetings differ from the requirements for regularly scheduled meetings. In order for the notice for a special called meeting to be adequate, the notice must be posted in enough time to give the public the opportunity to attend the meeting, the notice must be placed in a location that would allow the public to know that a meeting was scheduled to occur, and the content of the notice must be such that the public is informed of the issues to be addressed. See Englewood Citizens for Alternare B v. The Town of Englewood, 1999 WL 419710 (Tenn. Ct. App. June 24, 1999) and Tenn. Code Ann. Section 6-32-102.</p>
<p>Commission member called to discuss what occurred at the Cannon County Election Commission meeting on July 2, 2012. He asked that I provide whatever information I could on whether or not the notice for the meeting was adequate.</p>	<p>Commission member called to discuss what occurred at the Cannon County Election Commission meeting on July 2, 2012. He asked that I provide whatever information I could on whether or not the notice for the meeting was adequate.</p>	<p>See the attached email.</p>
	<p>County attorney called to discuss the Election Commission meeting that occurred on July 2, 2012.</p>	<p>Forwarded him the information that his client provided me related to the Election Commission meeting on July 2, 2012 and I also forwarded him the information that I provided to his clients.</p>
	<p>Commissioner said that Matt Studd told her that she should be providing minutes in a certain way and that this office had contacted her about this issue in the past and she says that she does not recall that being the case.</p>	<p>I went back into Share point and gave her dates when Beth Henry Robertson and I spoke with her about the minutes of the Election Commission's meetings and I also forwarded her the attached letter that was sent to the Election Commission Chairman.</p>

Question	Issue	Resolution
	Commission chairman wanted to have a follow-up discussion about the July 2 and July 10, 2012 meeting.	Please see the attached. As we discussed, because the meeting tonight is a special called meeting and the only things that can be discussed are the three items in the notice, I do not suggest that you all discuss the situation related to what occurred at the meeting on July 2, 2012 tonight. Deliberating towards a decision or making a decision related to what occurred on July 2, 2012 would likely constitute a violation of the open meetings act. As I said when we spoke, I strongly encourage you to speak with the County Attorney.
	Local city council went into executive session regarding whether or not to join the referendum lawsuit. Is that a violation of the open meetings act?	In my opinion, no, as long as the council did not deliberate towards or make a decision in the executive session (which is something that you will not know unless someone says that is what happened), given that the reason for going into executive session was to get legal advice about joining a lawsuit.
	Commissioner wanted to discuss what occurred at the Election Commission meeting on July 10, 2012. He said that the Commission voted to hire an interim administrator and he wanted to know what needs to be done at this point to correct any violation that may have occurred on July 2, 2012.	I referred him to the email that I sent him last week and said that the Commission would need to have a special called meeting as soon as possible and put the issue of job status of Mr. Dobson back on the agenda and then have new and substantial reconsideration of the issue.
	We met at a presentation and he wanted to know how the courts have defined deliberation. Emailed her a copy of the Johnston opinion.	It was nice to meet you yesterday. Below, please find a link to the case that I referenced during my presentation yesterday related to deliberations. Please let me know if you have other questions. Elisha <a href="http://tn.findacase.com/research/wfrmdocviewer.aspx/xq/fac.20091210_0001815.TN.htm/qx">http://tn.findacase.com/research/wfrmdocviewer.aspx/xq/fac.20091210_0001815.TN.htm/qx</a>
	The Beer Board meets an hour before the full commission tomorrow and the Beer Board might make an exception to an ordinance that the county commission would then have to approve. The issue is not on the county commission's agenda. Can it be discussed?	I would not suggest that it be discussed until it is placed on an agenda especially given the fact that it would be the approval of an exception to an ordinance that several other business are subject to.
		We met in the office to discuss the new provision that requires the PD's to hold meetings at least annually to provide citizens with information about having their records expunged. She wants to set it up like a public meeting with notice and we went through the policy that she has drafted and a copy of her draft notice.

Question	Issue	Resolution
<p>As you are aware, there is significant controversy these days in some parts over the issue of public notice. In an effort to achieve some clarity, I am submitting the follow questions to the Comptroller's Office. Any assistance that can be offered would, as always, be appreciated. Thank you, Kevin Halpern Co-Editor The Cannon Courier</p> <p>What specific actions should a local governmental body take to provide public notice of a regular meeting? What specific actions should a local governmental body take to provide public notice of a special called meeting? What notice they provide of a regular meeting is adequate? What specific actions should a local governmental body take to ensure that the public notice they provide of a special called meeting is adequate? With respect to providing public notice, do committees of specific governmental bodies fall under the same requirements as the body itself? For example, should the Budget, Audit, Law Enforcement, Homeland Security, etc., committees of a county commission provide the same public notice of meetings as that of a meeting of the full commission? In the opinion of the Tennessee Comptroller of the Treasury, does current Tennessee law adequately address the question of the requirements local governmental bodies should adhere to in providing adequate public notice? If not, what changes would he recommend?</p>	<p>Missed the presentation, but wanted to discuss the public notice issues that we discussed on Thursday. Said that she is the secretary for several committees that do not have "regularly scheduled meetings." What kind of notice are these committees required to provide? What about for special called meetings? What is the time frame for recording minutes?</p>	<p>We discussed the fact that an agenda does need to be published with the notice of a special called meeting and then discussed the fact that there are two different thoughts on agendas for regularly scheduled meetings, one thought is that no agenda is required with notice and another is that for issue of importance an agenda is required with the notice. Discussed the fact that for special called meetings and meetings where an agenda is published, the only issue that should be addressed are those that are on the agenda. Also discussed the fact that the statute says that minutes are to be fully and promptly recorded and in my opinion, that means that minutes should be recorded as soon as possible and the draft version of the minutes are accessible to the public.</p>
	<p>Citizen has questions related to the notice that was provided for a special called meeting.</p>	<p>What specific actions should a local governmental body take to provide public notice of a regular meeting? The Tennessee Open Meetings Act does not provide a time frame related to how far in advance of a meeting notice is required to be provided to the public nor does it require that notice be posted in a particular place. Additionally, the Tennessee Open Meetings Act does not require that particular information be provided in a notice. Tenn. Code Ann. Section 8-44-103(a) states only that a governing body is required to give "adequate public notice" of regularly scheduled meeting. In 1974, the Tennessee Supreme Court said, "[W]e think it impossible to formulate a general rule in regard to what the phrase "adequate public notice" means. However, ... or such notice based on the totality of circumstances as would fairly inform the public." Memphis Publishing Company v. City of Memphis, 513 S.W. 2d 511, 513 (Tenn. 1974). Almost every open meetings opinion since 1974 has included this language and language that makes it clear that there is no bright line rule for what constitutes adequate public notice. The circumstances and facts relating to each case determines what constitutes adequate public notice for the meeting in question. Generally the case law references where was the notice posted, when the notice was posted, and what the content of the notice was, so a governing body needs to post notice in locations that are going to make the public aware that a meeting is scheduled to occur, far enough in advance of the meeting to allow people the opportunity to participate in the meeting, with the As we discussed, the notice for the meeting should include the specific issues that are going to be addressed at the meeting and only those issues should be addressed.</p>
	<p>Commission chairman wanted to discuss the Cannon County Election Commission meeting on Monday morning or meeting later and ratifying a decision made now.</p>	<p>I advised against both, but said that the Monday meeting is probably better than doing something and then ratifying the decision later. Either scenario would likely make the Commission vulnerable to a lawsuit. I suggested that they wait if possible until some time after Monday morning. I also suggested that the notice for the meeting be clear and concise and that the notices be posted everywhere and that the be posted ASAP.</p>

Question	Issue	Resolution
<p>Sunshine Law question regarding posting notices for meetings. Is there any language in the open meetings act that requires notice for a Beer Board meeting to be placed in a newspaper? Is the Beer Board subject to the public records act?</p>	<p>Mr. Barker has not provided the following information, and when you and I last spoke, you were trying to get in contact with Mr. Barker? Obviously, it has been well over 10 days with no response. I do not believe Chairman Barker has been, or is currently keeping minutes during the Budget meetings in which there are normally 2 or more County Commissioners present during deliberations. Matthew Studd 213 Bradyville Rd. Woodbury, TN. 37190-6113 615-496-3151 June 3, 2012 Mark Barker, Chairman (To be followed by Certified Mail #7000 0600 0026 4830 2532) Cannon County Budget Committee RE: Cannon County Election Commission Budget Committee Amendment Request</p>	<p>No and yes, the only thing that there notice is required to be is "adequate public notice". We also discussed the case law on what constituted "adequate public notice" and we discussed the fact that if there is no notice for a meeting, a citizen could challenge the meetings and if a court found a violation, everything done at the meeting would be null and void.</p> <p>I have spoken with Commissioner Barker and he is now aware of the requirements of the open meetings act related to keeping minutes. It is my understanding based upon my conversation with him that the Budget Committee meets for two purposes (1) to consider initial budget requests made each fiscal year, and (2) to hear the budget amendment requests and come up with a recommendation to make to the full County Commission. For those meetings where the initial budget requests are being considered, minutes are taken by Diane Hickman and she maintains copies of those minutes. For the meetings where budget amendments are being considered, there has only been one meeting where notes, or minutes were taken in the six months that these meetings have been held. I will be send the Committee Chairman an open meetings letter.</p>

Question	Issue	Resolution
<p>A citizen came to a meeting and taped it. She asked if they were allowed to?</p> <p>A citizen asked if I am aware on any laws that would prohibit him from video recording the meetings of the Commission and putting them on the election commission's webpage for the public?</p>	<p><b>Cannon County Election</b> Commission has some questions about the meeting that they want to hold Monday night (Sue Patrick was also on the phone).</p> <p>The County missed the time frame for a having a public hearing and publishing a proposed budget in the newspaper (TCA 5-12-108) and wants to know what needs to be done at this point.</p> <p>New commissioner was told that under the open meetings act, he needed to make certain disclosures when he voted on issues that impact his county employment. He also had some questions related to how the Ambulance Service can purchase a new ambulance.</p>	<p>As I said, given that you feel like it is necessary that they have an administrator in place during the election, I suggest any meeting that is held on Monday, be held as late as possible so that the public will have as much notice (time to become aware that a meeting is scheduled). I also suggest that the Commission post the notice as soon as possible (i.e. as soon as they can create it and run the notices off and post them). I also think that it is essential that they post the notices in every possible place around town so that as many interested citizens see the notice as possible. They might also want to have the notice mentioned on all of the local radio stations. I would also make sure that all of the local media outlets had a copy of the notice. Also, when the meeting starts, I think that it would be very wise for one of the members, probably the chairman to make a statement for the record, indicating why it is essential for the meeting to be held and why it is essential that an administrator be hired right now. I think that given the situation and the short amount of notice, the Election Commission should be prepared for a legal challenge. The Englewood Citizens for Alternate v. The City of Englewood, 1999 WL 419710 (Tenn. Ct. App. June 24, 1999) is the only case in Tennessee that address the timing of a meeting and in that case, based upon the circumstances of the case, the court said that 48 hours was not enough notice. In this situation there will be more than 48 hour notice, if the notice is posted immediately. If there is a challenge, it will come down to whether or not the court found it to be imperative that an Administrator be hired in such a short time frame. Also, the Commission needs along with an individual from state and local finance discussed what needed to be done at this point in order to address the lack of notice.</p> <p>I told him that the open meetings act does not address disclosures and recusal and referred him to CTAS. I referred him to County Audit on the ambulance purchase issue.</p> <p>Yes, the citizen is allowed to record the meeting; also, the Commission member who wants a copy of the recording cannot make a public records request to the citizen. The Act is only applicable to governmental employees and agencies.</p> <p>No</p>

Question	Issue	Resolution
<p>Car Commission meeting tomorrow at 10:00 . Car Commission established by the city manager and city manager chose the members and the meeting time, date, and location. He was told that the meeting is not public because the Commission did not appoint the commission.</p>		<p>I called Eric Brakens - Assistant City Manager - Workshop - city has so many car shows and wanted a committee to look at these issues - make recommendations - recommend to city staff and some citizens. I received an email from Mr. Brakens the next morning saying that the meeting had been postponed until they could look into the notice issue more.</p>
<p>Re Car Show Commission</p>		<p>Thank you for taking the time to speak with me this afternoon. I have attached several options for your review.  <a href="http://tn.findacase.com/research/wfrmdocviewer.aspx/xq/fac.19770311_0002-TN.htm/qx">http://tn.findacase.com/research/wfrmdocviewer.aspx/xq/fac.19770311_0002-TN.htm/qx</a>  <a href="http://tn.findacase.com/research/wfrmdocviewer.aspx/xq/fac.19920708_0001-TN.htm/qx">http://tn.findacase.com/research/wfrmdocviewer.aspx/xq/fac.19920708_0001-TN.htm/qx</a>  While I understand from our conversation that you all are not really sure if the Committee will make recommendations to the City Commission, it sounds as though the Committee has the authority to do so. I will tell you that the complainant just called back and said that one of the Committee members has said that a vote was to be taken tomorrow to recommend to the City Commission that the \$5,000 that the Commission had voted to give the event for the Porta Potties not be provided. Additionally, while it appears from the minutes that the Commission never voted to form the Committee, the minutes do state that it was recommended that a committee be formed. The citizen who called and made the complaint also just said that he was told by a Commission member that at a subsequent meeting, the Commission approved the appointments that Ms. Tester made. While the facts surrounding this situations do not fit neatly into the case law that I have attached above, I suggest that you all consider erring on the side of caution and having these meetings open to the public. I do not want you to be in a situation where recommendations are ultimately made to the Commission based upon discussions and decisions that were made by a committee at meetings that the</p>

Question	Issue	Resolution
<p>Re Car Show Committee-Conversation with City Mayor and City Manager</p>		<p>Resolution</p> <p>Thank you for taking the time to speak with me this afternoon. I have attached several opinions for your review.</p> <p><a href="http://tn.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19770311_0002.TN.htm/qx">http://tn.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19770311_0002.TN.htm/qx</a></p> <p><a href="http://tn.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19920708_0001.TN.htm/qx">http://tn.findacase.com/research/wfrmDocViewer.aspx/xq/fac.19920708_0001.TN.htm/qx</a></p> <p>While I understand from our conversation that you all are not really sure if the Committee will make recommendations to the City Commission, it sounds as though the Committee has the authority to do so. I will tell you that the complainant just called back and said that one of the Committee members has said that a vote was to be taken tomorrow to recommend to the City Commission that the \$5,000 that the Commission had voted to give the event for the Porta Poties not be provided. Additionally, while it appears from the minutes that the Commission never voted to form the Committee, the minutes do state that it was recommended that a committee be formed. The citizen who called and made the complaint also just said that he was told by a Commission member that at a subsequent meeting, the Commission approved the appointments that Ms. Tester made. While the facts surrounding this situations do not fit neatly into the case law that I have attached above, I suggest that you all consider erring on the side of caution and having these meetings open to the public. I do not want you to be in a situation where recommendations are ultimately made to the Commission based upon discussions and decisions that were made by a committee at meetings that the I walked through the attached letter with him and told him if he wanted a copy, he could request it and I would provide it to him.</p>
<p>Multiple items on agenda and in notice - notice posted yesterday at the City Hall and ran today in newspaper - Can we discuss more than one issue at a special called meeting?</p>	<p>Citizen called to do a status check on the complaint that he made about Rhea County and the notices that are sent out related to the meetings and other notice issues.</p>	<p>Yes - as long as it is in the notice.</p>
<p>is there a law or any protection stating that a municipality must give notice to it's citizens regarding any utility rate increases or can they literally just surprise you on the bill? This time, I am absolutely not alone in the funny business going on at our city hall. Some of us have 500 to 700% increases in water bills (and then it turns out the meter readings are far higher from July 25 than they actually are on the meter at the present time) and others have bills that have "white out" on them with new, handwritten amounts (say a bill that is typically \$23 is now \$200). My husband went back over his notes for the July 2012 board of alderman meeting and he and others state there was never any mention of rate hikes. While we do not mind paying higher prices during a drought (although we are as efficient with drip lines, etc. as anyone could possibly be and are very conservation minded), we also have received threats online and offline regarding destroying our business in addition to the usual running us out of town. Our bill increased, with NO increase in usage, from \$110 to \$771 and as mentioned, today's reading on the meter was substantially less than what was put on the bill when read July 25.</p>		<p>I am forwarding your email to Joyce Welborn for response. Ms. Welborn is the person within the Comptroller's office that works with the Waste Water Finance Board and the Utility Management Review Board.</p>

Question	Issue	Resolution
<p>Haywood County School Board has a policy that states that in order to speak at a meeting you must send in a written request 10 days prior and then the board will approve or deny your request is that fair?</p>		<p>Resolution</p> <p>We discussed the fact that citizens have the right to attend meetings, but no right under the public records act to speak at a meeting that is not a hearing or some other type of meeting where the law specifically gives the public the right to speak. We also discussed the fact that this did no preclude letters and other forms of communication with the School Board members. I also told him that he should make a public records request for the policy to see if the policy actually says has been communicated to him.</p>
<p>Citizen called city hall to find out what was on the agenda for the meeting tomorrow night. They told her they didn't know and the meeting was canceled. She asked why and they said they didn't know and to call the Mayor. She called the Mayor and he said the doctor has not released him to go back to work yet and he didn't know the meeting was canceled either. She also has had some issue obtaining records from the City manager that she would like to have for the Planning Commission meetings that she chairs.</p>		<p>I told her that there are not any notice requirements for when a meeting is cancelled, but as a courtesy, I always suggest that notice be posted and announcements be made that a meeting has been canceled. With regard to not being able to access records, I emailed the City manager and her response is attached. I passed this information on verbally to Ms. Brown.</p>
<p>Where are the recordings of meetings required to be maintained?</p>		<p>We discussed the fact that there is nothing in the law that says where the recordings have to be maintained; the law only states that once requested, that the recordings have to be provided. I told her that it is my opinion that the records be maintained at the government building for accessibility reasons and to ensure that the integrity of the records are maintained</p>
<p>Thank you once again for your assistance. Per your request, attached below is the email sent yesterday, after his phone call, by Mr. Brackins. Looking forward to future meetings being posted in accordance with the contents of Mr. Brackins email, however there is a slight dispute in his claim of the city having executed in such a manner in the past. TAB meetings, time and location, have not been posted on the city website with other than TBA (to be announced) located out to the side. Only receiving The Mountain Press (TMP), unable to speak as to the contents or methods in which public meetings are announced in the other listed newspapers. TMP usually prints an article on Friday, three days before the scheduled City Commissioners Meeting, casually mentioning some of the issues to be discussed and meeting details thrown in the article. In all the years of my reading TMP, I cannot recall the Tourism Advisory Board (TAB) meetings having ever been announced prior to their scheduled meeting. The meeting occurs, publicly unannounced, with the outcome shared publicly in newspaper articles, online posts and City Commissioner meetings as a vote is taken based on the TAB Boards recommendation or speaking as to having the full support of the TAB Board. This same announcement behavior repeats itself in the handling of numerous other meetings throughout the city and county. Does the state have printed guidelines governing "public meeting announcements"? If so, do those guidelines stipulate a consistent location/heading within ALL mediums announcements are to take place? Is there a policy schedule, based on the purpose of such public meetings, as to when an announcement must first be made, length of time the announcement</p>	<p>All TAB board meetings are noticed to the entities listed below. In addition the notices are posted here at city hall and posted on the website 10-12 days prior to the meeting.</p>	<p>No, there are no printed guidelines and the case law does not lay out any. The courts have simply said that "adequate public notice is notice that is adequate based upon the facts and circumstances surrounding the notice" and notice that "would fairly inform the public based upon the facts and circumstances". There are some specific provisions that govern how county commissions and certain types of city councils are to conduct and notice special called meetings, but these provisions are relative only to special called meetings.</p>

Question	Issue	Resolution
If one council member sends an email out to all other council members stating his opinion on an issue that is before the council, is that an open meetings violation?		<p>As we discussed, I think that it could be argued that one Council member sending an email to all of the other Council members full of his/her thought on a matter to be voted upon by the entire Council is at the very least a violation of the spirit of the open meetings act, if not a technical violation. However, I am not aware of any case in Tennessee where the Courts have specifically opined on this issue. I think that if members responded with their own opinions about the issue, then that becomes a clear violation. Because members would be so tempted to respond back, I do not think that it is a good idea for one member to send an email like that to all members. In my mind that sets the Council up for a violation. Here is a link to the case that I referenced when we spoke.</p> <p><a href="http://tn.findacase.com/research/wfrmdocviewer.aspx/xq/fac.200912210_0001815.TN.htm/qx">http://tn.findacase.com/research/wfrmdocviewer.aspx/xq/fac.200912210_0001815.TN.htm/qx</a>. You can also pull the case up on Westlaw at 320 S.W. 3d 299 (Tenn. Ct. App. 2009).</p>
	<p>The Monroe County school board voted to extend the contract for the school superintendent in June and at the July and August meetings, they have discussed the terms of the contract. Were they required to give the notice set out in Tenn. Code Ann. Section 49-2-203(a)(14)(C) each time that they contract has been discussed?</p>	<p>I do not think so based upon the language in the statute. It appears that the specific notice is required only when the vote was taken to extend the contract. We also discussed the fact that while the issue was not on the agenda, the meeting was regularly scheduled and the case law is split on whether the issue has to be in notice specifically or on the agenda.</p>
Letter - complaint about Fentress County Board of Commissioners - August 9, 2012		See the attached open meetings letter.

Question	Issue	Resolution
<p>1. Considering the public funds involved (over one million dollars), the several competing interests for this money, and the considerable controversy surrounding allocation of the \$1 million—all of which were apparently known to commissioners and to the Mayor prior to the meeting—would you consider website and bulletin board notice "adequate" under the circumstances? 2. If website and bulletin board notice are adequate notice for this special called meeting, does this mean that a citizen must go to the Courthouse to check bulletin boards or check the county's website almost daily in order to have notice and awareness of a special called meeting like this?</p>		<p>I have been asked by a citizen of Hamblen County to request your opinion concerning "adequate" notice of a special called public meeting. The citizen learned of the meeting when the newspaper reported on the votes and actions taken. The Hamblen County budget for 2012-2013 was approved in July 2012. The Budget Committee of the Hamblen County Commission then held a special called meeting on August 7. [The Budget Committee is composed of all 14 commissioners. Therefore, its deliberations are particularly significant and its recommendations are almost always approved at the subsequent meeting of the Hamblen County Commission.] The major item discussed and voted upon at the Aug 7 Budget Committee meeting was how to spend \$1 million dollars of public funds that had formerly been part of a Hamblen County endowment fund established about 8 years ago. Based on the post-meeting newspaper report, at least two non-profits were requesting allocations from the former endowment fund, and there was consideration of providing some of the money to volunteer fire departments and the Sheriff's Dept. for mandated communications upgrades as well as setting aside some of the money for jail improvements. It appears that there was very spirited debate among commissioners about the allocation of the \$1 million. Several different motions and amendments were made and votes taken. A final recommendation was approved and is set to be on the full commission's agenda on Aug 23. There may also have been review of proposals and vote on a recommendation for an insurance advisor. There was no newspaper notice of this special called meeting told John that based upon my review of the statute Tenn. Code Ann. Section 57-5-105 is only relative to Class A counties and cities, towns, and Class B counties are subject to Tenn. Code Ann. Section 57-5-106 which has a different set of criteria. She needs to look to the city ordinance to determine what is anything is mentioned about the manner in which the public has to be noticed when license are being considered</p>
<p>Received a question from a citizen who lives in a city where a beer board gave someone a license and she says that the meetings was not noticed in the newspaper in accordance with Tenn. Code Ann. Section 57-5-105</p>		
	<p>received the open meetings letter that I sent and wanted to discuss how to go into executive session and what exactly a notice for a special called meeting had to contain. He also acknowledged that the Commission did what the letter said based upon his advise, but not for the reason stated in the letter</p>	<p>discussed the notice required for a special called meeting and what the case law says can occur during an executive session</p>

## Issue

I would like to know who and how to report a city meeting that is in violation of the Sunshine Law. Do you know if a volunteer can call a meeting of a city commissioner? Or does it have to be a commissioner?

## Resolution

Because the City has adopted a City Manager-Commission charter, the provision relevant to calling a special called meeting is Tenn. Code Ann. Section 6-20-208 which reads: Whenever, in the opinion of the mayor, city manager or any two (2) commissioners the welfare of the city demands it, the mayor or the recorder shall call special meetings of the board of commissioners upon at least twelve (12) hours written notice to each commissioner, the city manager, recorder, and city attorney, served personally or left at such person's usual place of residence. Each call for a special meeting shall set forth the character of the business to be discussed at such meeting and no other business shall be considered at such meeting. Also, the relevant portions of Tenn. Code Ann. Section 8-44-102 read:

(a) All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of Tennessee.

(b) (1) "Governing body" means: (A) The members of any public body which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public body on policy or administration and also means a community action agency which administers community action programs under the provisions of 42 U.S.C. § 2790 [repealed]. Any governing body so defined by this section shall remain so defined, notwithstanding the fact that such governing body may have designated itself as a negotiation committee for collective bargaining purposes, and strategy sessions of a governing body under such circumstances shall be open to the public at all times; . . . (2) "Meeting" means the convening of a governing body of a public meeting. . . . (2) "Meeting" means the convening of a governing body of a public meeting. I looked for statutory provisions that require a public hearing to be held by emergency communication districts, but only found that requirement for a few issues. So, absent a requirement in the statute that a public hearing be held and noticed in a particular manner, the Board could call all of the members together to listen to the concerns of the citizens about a particular issue without having to notice the hearing in any particular manner. If the members intend to deliberate towards or make decisions at the hearing, then the open meetings act would be triggered. If this hearing/meeting is a special called meeting, then the notice is required to contain the exact issues that are going to be addressed at the meeting and only those issues could be addressed. 2. If this is a hearing/meeting that is required to be noticed to the public, then I think that it should include the address of the meeting. 3. I am unaware of any provisions or case law that make it illegal or impermissible to hold a meeting in a public building that has security measures in place to which the public must adhere in order to enter the building to attend a public meeting. There are a number of government buildings here in Nashville that require the individuals entering the building to go through security check points. As long as this meeting location was not chosen in order to prevent citizens from attending the meeting, I am not aware of any legal authority that makes this location insufficient. On Monday, I plan to contact the District Director about the notice.

At your convenience, below are some Open Meetings questions. With regards to a Public Notice (attachment) from the Loudon County Emergency Communications District that ran in the News Herald publication: 1. Should the contents of the Public Notice adequately describe the purpose of the meeting, or the action proposed to be taken by the E-911 Board? The public notice said "The hearing will be in reference to the Emergency Communications Board". I am concerned that this does not adequately describe to the public, proposed landline E-911 rate increases for residential and business customers. 2. Should the Public Notice specify a street address to the Public Hearing? 3. Is it permissible under the Open Meetings Act to hold a public meeting in a facility that is not open or easily accessible to the public? The Public Hearing will be held at the E-911/ EMA/Homeland Security facility. The secured site is accessible to authorized personnel, and for the public to access the grounds requires authorization to enter the locked front gate, and secured building with at least two locked doors – exterior (entry door) and interior door to conference room. The conference room is large enough for a large table and chairs for the Board with no seating for the public. Public meetings are normally held at public buildings (PA and ADA), which are open and accessible to the public.

Question	Issue	Resolution
<p>For next week. After reading E-911 Rate Increase Form, I'd like some clarification with two follow-up questions: 1. The E-911 website displays the Board's Regular Meeting Schedule Dates; would a meeting outside of these dates constitute a Special Called meeting? A) E-911 Website Regular Meeting Schedule Dates: <a href="http://www.loudoncounty911.org/meeting_schedule.php">http://www.loudoncounty911.org/meeting_schedule.php</a> (Aug. 14, 2012; Sept. 11, 2012; Oct. 9, 2012; Nov. 13, 2012; Dec. 11, 2012; Jan. 15, 2013; etc.). The E-911 website posted, "The August Board meeting was moved to August 21, 2012" but did not specify the public hearing or purpose of meeting. <a href="http://www.loudoncounty911.org/">http://www.loudoncounty911.org/</a> 2. The records named in the rate increase form, are these considered public records and open for public inspection? Yes</p>		<p>1. Yes, but in order for a meeting to occur, the members have to be deliberating towards or making a decision on public business. I spoke with the Director about these issues this morning and she is going to contact the State Emergency Communication's Board and her attorney to further discuss. 2. Yes</p>
	<p>I called the 911 Director and told her that I had received an inquiry from a citizen regarding the notice that was published in the paper related to a public hearing and a special called board meeting. Neither the public hearing notice or the notice for the special called board meeting had the purpose of the items to be discussed included.</p>	<p>Suggested that she speak with her attorney and the State EC Board because while the statute just talks about having a public hearing, I think that the notice for the meeting needs to contain the topic to be discussed and I know that the notice for the meeting needs to. She called back and we discussed the fact that she needed to just type up a statement to cancel the meeting and hearing and to post the notice cancellation in as many public places as possible.</p>
	<p>Board member is on the agenda to speak at the PTO meeting at the school in her district. The Superintendent found out and told the principal of the school not to let her speak. Does that violate the open meetings act?</p>	<p>No and I explained to her what the open meetings act covers.</p>
	<p>Citizen wanted to discuss whether a set of facts constituted an open meetings violation. One commission member spoke to the entire county commission on an issue outside of a public meeting in a back room right before the county commission meeting began. Is this a violation of the open meetings act?</p>	<p>Not necessarily. I explained to him the fact that the open meetings act is only triggered when multiple members of a governing body deliberate towards or make a decision on public business. If the Commission member was providing facts to the other members, then the case law holds that does not constitute a violation. It really depends on what was being said and what the response from the other commissioners was. I emailed him a link to the Johnston opinion for his review.</p>

Question	Issue	Resolution
	<p>Only three county commissioners vote on urban service issues. At the recent meeting only two of those members were present and so one member made a motion, but the other member did not second the motion so the motion died. A recess was then called and the County Executive, the Commission Chairman, and the member who would not second the motion went into a backroom. When the meeting was called to order, the motion was renewed and passed with both votes. According to Mr. Chambers, only those 3 members who live in the urban service areas have the authority to vote or deliberate on the issues specific to the urban service areas. Was there an open meetings violation?</p>	<p>I cannot say for certain because 1.) I was not in the backroom when the individuals met there and 2.) given the fact that only one of the individuals who has the authority to vote on or deliberate on the issue was in the backroom, I am not sure that there was a violation if none of the other members are truly able to make a decision or deliberate towards a decision on the urban service issues.</p>
	<p>A local communication board held a public hearing on its budget and there was not a quorum at the public hearing but there was a quorum at the board meeting that occurred after the public hearing. Did the board need a quorum at the public hearing?</p>	<p>Not in my opinion. The language in the statute (Tenn. Code Ann. Section 7-86-120) only says that there must be a public hearing and that it has to be properly noticed, but if does not say that there has to be a quorum and since no business was transacted, I do not think so.</p>
<p>A notice was prepared for a meeting and I was asked to review the notice before it was posted.</p>		<p>Reviewed the draft and sent my comments.</p>

Question	Issue	Resolution
Can a citizen video record a public meeting?		<p>Per our conversation this morning, the relevant part of the AG opinion that I referenced reads (first paragraph is part of the question presented, the second paragraph is the summary response from the AG's office and the final paragraph is the conclusion of the opinion): A proposed ordinance of the City of Bells makes it unlawful for anyone to bring any video or photographic equipment into an official meeting of the Board of Mayor and Aldermen. It further prohibits taking photographs of anyone in the room during an official meeting. Would such an ordinance violate the First Amendment, Tennessee's Open Meetings Act or otherwise be invalid? The proposed ordinance's blanket ban on bringing video or photographic equipment into an official meeting of the Board, as well as its prohibition against taking photographs of anyone at the meetings, would violate Article I, Section 19 of the Tennessee Constitution as implemented by the Open Meetings Act, Tenn. Code Ann §§ 8-44-101, et seq. The breadth of the proposed total ban goes well beyond that which is reasonably related to the city's legitimate interests. Upon reconsideration of Op. Tenn. Atty. Gen. 95-101, this Office is of the opinion that it does not matter whether the Open Meetings Act itself limits the conditions that governing bodies may place upon members of the public who attend their meetings. Under Article I, Section 19 of the Tennessee Constitution, a city council may only regulate access to its public meetings in a manner that reasonably serves public safety and welfare, or its ability to conduct orderly and efficient proceedings. Based on the authorities discussed above, it is the opinion of this Office that</p>
	<p>A governing body plans to meet Tuesday, August 28, 2012 and call a special called meeting for Tuesday, September4, 2012. Does it matter that one of the five days of required notice is a holiday?</p>	<p>In my opinion no. The statute says 5 days notice (Tenn. Code Ann. Section 5-5-105 and not 5 business days. I do suggest however that even though the notice will not run in the paper until Thursday, August 30, 2012, notice is placed on the website and in government buildings and on the radio on Wednesday morning.</p>
	<p>Open meetings complaint- multiple members of the Tracy City BOMA met to hire a police chief at one of the members homes and when that police chief resigned, 2 of the members met at a local Mexican restaurant and decided to hire the assistant chief as the chief. The assistant allegedly came back to the complainant after the meeting and told him what had been decided at the meeting...Burrows and Meeks</p>	<p>See the attached open meetings letter.</p>

Question	Issue	Resolution
	<p>There are two sets of minutes from July that have not been approved. Do they need to be approved and does the fact that two of the current members were not on the Commission back in July make any difference?</p>	<p>The minutes need to be approved just like all the other minutes. It would probably be helpful if the minutes were sent out to all the members for review and if the members making the motion to approve and second the motion were members who were actually a part of the Commission at the time that whatever is discussed in the minutes took place. If there is a recording of those meetings, I told her that she might want to attach the recording to the email she send of the minutes for review.</p>
	<p>Citizen filed an open meetings complaint against the City of Gadsden Board of Mayor and Aldermen</p>	<p>See the attached open meetings letter.</p>
<p>Please review the Agenda for our Sept. 10th meeting, especially items 8 and 9. Please call me to discuss the adequacy of these items. Thank you, Matt Studd, Chairman 615-496-3151 Here is a "DRAFT" of Agenda Items I desire to illustrate for our next Meeting. All the mandatory items, such as ... 1.) Approve all previous Special Meeting Minutes. 2.) Approve Poll workers and classifications. 3.) Approve Absentee Counting Board. 4.) Approve Early Voting Dates and Times &amp; Location. 5.) Approve Nursing Home Voting Date, Time &amp; Workers. 6.) Lock and Seal Ballot Boxes. 7.) Approve placing an ad seeking additional Poll Workers. 8.) Redress actions taken during the July 2, 2012 Election Commission Meeting and legal impact and or consequences if improper or unlawful actions taken during this meeting are not remedied and reconciled. 9.) Redress the Deputy AOE's work hours and pay rate to accommodate working 40 hours per week as needed by AOE and Office work load needs. 10.) Address Mandatory Fire Marshal requirements such as Entrances &amp; Exits, Alarms, Signs, Lights, Smoke/Fire Detectors, Extinguishers and Evacuation Plans &amp; Postings and Maximum Capacity Limits, to ensure Voter and Office Worker's safety. 11.) Set new Meeting Day for each Month's Regular Schedule. 12.) Evaluate new Poll Worker Application and implementation. 13.) Adopt our Mission Statement and include it on our Web Site. 14.) Motion to Adjourn</p>	<p>Citizen called to make a complaint about the City Council Pikeville meeting on Saturday after posting notice yesterday.</p>	<p>We discussed the fact that that is 4 days notice and the case law indicates that anything 48 hours and under is too little. He said that the notice was posted in the newspaper and possibly in other places around town. He also said the Vice Mayor was going to be appointed and he knew that because he has spoken to two aldermen who told him the plan. I asked if that was what was required per the private act and he said that he thought so. I told him that open meetings violations are based upon the facts and circumstances of each case, but it appears, based upon what he told me, that the notice was likely posted in enough time and in the appropriate places.</p>
		<p>As we discussed this morning, I have real concerns about the use of the word "redress" in agenda items 8 and 9. The word redress means to make right and unless you can guarantee that a specific course of action is going to be taken, I do not think that this is the proper word to use. Additionally, use of the word redress calls into question whether or not an open meetings violation has occurred again, because the word implies that a definitive action is going to be taken. I am also concerned about the Commission discussing the "legal impact and consequences" of anything without approval from your attorney. If all are inclined to allow Mr. Dobson and his attorney to come to the meeting and address the Commission, you can decide to do that, but I think that the Commission should be cautious about responding to anything said until you all confer with your attorney (you will have to confer individually until such time as a lawsuit is threatened, but if and when a lawsuit is threatened, you can go into executive session and provide the attorney facts and have the attorney provide you all with legal advice about the threatened litigation) based upon the fact that everything that is said is recorded in the minutes of the meeting. I suggest that you edit the action item that currently reads, "Redress actions taken during the July 2, 2012 Election Commission Meeting and legal impact and or consequences if improper or unlawful actions taken during this meeting are not remedied and reconciled" to read "Comments and Presentation from Stan Dobson and his attorney related to actions taken at July 2, 2012 Election Commission meeting." This would limit the Commission's ability to comment on</p>

Question	Issue	Resolution
<p>Please disregard previous agenda list. Substitute with this revised copy for your review. All the mandatory items, such as ... 1.) Approve all previous Special Meeting Minutes. 2.) Review Referendum that goes on the Woodbury City ballot for retail package stores to sell alcoholic beverages 3.) Approve Poll workers and classifications. 4.) Approve Absentee Counting Board. 5.) Approve Early Voting Dates and Times. 6.) Approve Nursing Home Voting Date, Time &amp; Workers. 7.) Lock and Seal Ballot Boxes. 8.) Approve placing an ad seeking additional Poll Workers. 9.) Readdress actions taken during the July 2, 2012 Election Commission Meeting concerning the AOE position; and also an AOE Presentation. 10.) Readdress the Deputy AOE position, work hours and pay rate. 11.) Address Mandatory Fire Marshal requirements such as Entrances &amp; Exits, Alarms, Signs, Lights, Smoke/Fire Detectors, Extinguishers and Evacuation Plans &amp; Postings and Maximum Capacity Limits, to ensure Voter and Office Workers' safety. 12.) Set new Meeting Day for each Month's Regular Schedule. 13.) Evaluate new Poll Worker Application and Implementation. 14.) Adopt our Mission Statement and include it on our Web Site. 15.) Motion to Adjourn</p>		<p>1. I would add the months (i.e. from July) 3. (for the November election?) 4. (for the November election?) 5. (for the November election?) 6. (for the November election?) 8. (for the November election?) 9. (I would strike the last part of this agenda item and make the first part agenda item #10 and renumber accordingly thereafter) (if you are going to allow Mr. Dobson and his attorney to speak at the meeting, I think that needs to be agenda item #9. Let them present and then the board can do whatever it intends to do as far as discussion #9 can be Comments from Stan Dobson and his attorney (you can name the attorney)) I have made some edits below in the body of your email. I will stress again that I feel that it is important for you to contact both the Division of Elections and the attorney for the Commission before you finalize this agenda, especially regarding agenda item #9.</p>
<p>Citizen sent in a letter requesting to speak at this meeting. Mayor is going to deny the request but wants to talk to you first.</p>		<p>I told the Mayor that it is only those items in the call/notice that can be addressed at a special called meeting. Referred her to Tenn. Code Ann. Section 5-5-105. I told her that the citizen would either have to wait to the next meeting to speak or the County could publish new notices that include the comments by the citizen.</p>
<p>Meeting has been scheduled for 9/13/2012 and already posted. One of the commissioners has a doctor's appointment that day and wants the meeting changed to a later date. Can she do that?</p>		<p>Yes, just post cancellation notices and say in the notice that the meeting will be rescheduled at a later date and a new notice will be posted.</p>
	<p>The County received the open meetings letter that I sent and the County Executive wanted to discuss.</p>	<p>I discussed the exact provision in the law that requires that the budget information be published in a newspaper and I also discussed with him the fact that the statute requires the information to be available to the public before the public hearing. I told him that at this juncture, the budget has been adopted and he just needs to know in the future that this is the manner in which notice needs to be provided to the public regarding the adoption of a budget.</p>

Question	Issue	Resolution
<p>We have a special session of the county legislative body set for Monday, September 10, 2012. On August 30, 2012 Mrs. Vanzant received a written request from Allen Barrett requesting to speak on said date. It is my understanding that no other business but that embraced in the call shall be transacted during such special session. Mr. Barrett requested to speak last year and we simply responded with a letter that his request was denied and cited that in accordance with Tennessee law, no other business but that embraced by the call shall be transacted. I will be drafting a letter on behalf of Mrs. Vanzant denying Mr. Barrett's request. Please advise if there is any additional language or authority which you feel I should cite.</p>		<p>I did speak with Ms. Vanzant on Friday. You are correct that no other business except that which is in the call or notice can be transacted at a special called meeting. Tenn. Code Ann. Section 5-5-105 reads: (a)(1) The county mayor has the power to convene the legislative body in special session when, in the county mayor's opinion, the public necessity requires it. (2) Upon written application to the chair of the legislative body by the county mayor or by a majority of the members of such body, then in that instance, it shall be mandatory for the chair to call a special session of such body. (3) The convening date of such body shall not be more than fifteen (15) days nor less than forty-eight (48) hours from the time of the filing of such application with the chair. (4) The provisions of this subsection (a) shall not apply to counties of Class 1 as established by § 8-24-101. (b)(1) The county mayor shall be authorized to call a special session of the county legislative body for emergency purposes only by publication in a newspaper published in the county, and by personal notification to the members of the county legislative body at least two (2) days before the time of the convening of the county legislative body, in any county that authorizes its county mayor to act in accordance with the provisions of this subsection (b), by a two-thirds ( 2/3 ) vote of the county legislative body. (2) The call or notice shall specify the objects and purposes for which such special session is called, and no other business but that embraced in such call shall be transacted during such special session. (3) The provisions of this subsection (b) shall apply only to any county having a population not less than two hundred eighty-seven Tenn. Code Ann. Section 4-5-312. Procedure at hearing. (a) The administrative judge or hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order if any. (b) To the extent necessary for full disclosure of all relevant facts and issues, the administrative judge or hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the pre-hearing order. (c) In the discretion of the administrative judge or hearing officer and agency members and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place. (d) The hearing shall be open to public observation pursuant to title 8, chapter 44, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript obtained by the agency, except as otherwise provided by § 50-7-701.</p>
<p>Are administrative hearings subject to the open meetings act?</p>		
<p>The Sevier County Election Commission is going to have to have a special called meeting, because there was no notice posted for the regularly scheduled meeting. What where and when does the notice need to be posted?</p>		<p>As soon as possible for a meeting next Thursday and the notice needs to contain every issue that you all intend to discuss at the meeting. Also, the notice needs to be posted in the places that you traditionally post.</p>

Question	Issue	Resolution
<p>I'm a new Manager here in Clifton and our City Commission holds a 'Study Session' once every month. I'm not certain that the meeting meets requirements for TN specific open records laws and I wanted to touch base with you.</p>		<p>I have attached for your review an opinion that I did last year related to "work sessions." I am of the opinion that no matter what the gathering is called, if multiple members of the governing body plan to meet and deliberate towards or make a decision related to public business, a "meeting" is scheduled to occur and the governing body is required to provide adequate public notice of the meeting, hold the meeting open to the public and record minutes of the meeting.</p>
<p>Is the Board allowed to hold a telephonic meeting when a quorum will not be physically present in one location and can they put notice out today for a meeting scheduled for Wednesday?</p>		<p>This is the provision that we discussed during our conversation this morning. Tenn. Code Ann. Section 8-44-108 reads: (a) As used in this section, unless the context otherwise requires: (1) "Governing body" refers to boards, agencies and commissions of state government, including state debt issuers as defined in this section and municipal governing bodies. For the purpose of this section only, "municipal governing bodies" means only those municipal governing bodies organized under title 6, chapter 18, and having a city commission of three (3) members, and having a population of more than two thousand five hundred (2,500), according to the 2000 federal census or any subsequent federal census; (2) "Meeting" has the same definition as defined in § 8-44-102; (3) "Necessity" means that the matters to be considered by the governing body at that meeting require timely action by the body, that physical presence by a quorum of the members is not practical within the period of time requiring action, and that participation by a quorum of the members by electronic or other means of communication is necessary; and (4) "State debt issuers" means the Tennessee state funding board, Tennessee local development authority, Tennessee housing development agency, and Tennessee state school bond authority, and any of their committees. (b)(1) A governing body may, but is not required to, allow participation by electronic or other means of communication for the benefit of the public and the governing body in connection with any meeting authorized by law; provided, that a physical quorum is present at the location specified in the notice of the meeting as the location of the meeting. (2) If a</p>

Question	Issue	Resolution
<p>I had written a letter on behalf of the county executive to Mr. Barrett explaining his request must be denied and referenced T.C.A. § 5-5-105. Mr. Barrett has now responded stating that he only intends to address the issue of the budget which is the stated reason for the called session. He goes on to further state his attorney has consulted with the State Attorney General concerning the matter and that his request is in compliance with the statute. The call states the purpose of said Special Session is as follows: 1. Making appropriations to nonprofit charitable organizations of Giles County, Tennessee for the fiscal year beginning July 1, 2012 and ending June 30, 2013. 2. Making appropriations for the various funds, departments, institutions, offices, and agencies of Giles County, Tennessee beginning July 1, 2012 and ending June 30, 2013. 3. Fixing the tax levy in Giles County, Tennessee for the fiscal year beginning July 1, 2012. 4. Resolution to refinance the 2 million dollar, Series 2011, sewer project capital outlay note. I assume had the call specifically stated, "A discussion by Mr. Barrett of the county budget," then he would be allowed to speak. I am confident we are correct in this; however, I want to be able to give him or his attorney my reasoning. I did a quick search of the AG's opinions this morning and nothing popped up; however, I will go back and rephrase my question to see if I find anything. Any guidance or direction you can give me will be most helpful.</p>		<p>In my opinion, if the call had included "comments from citizens on the budget" or something akin to that, I think that he would be allowed to speak. However, it does not and for that reason, I do not think that any other citizen would think that he or she would have the right to speak at the special called meeting on the budget. I will also say that the Tennessee Attorney General's office only gives legal advice to state level entities and certain appointed and elected officials. I am not sure what is meant by his request is in compliance with the statute since the courts in Tennessee have stated on numerous occasions that citizens have the right to participate in the meetings by attending, but there is nothing in the open meetings act that gives citizens the right to speak at a meeting. See <i>Souder v. Health Partners, Inc.</i> 997 S.W. 2d 140 (Tenn. Ct. App. 1998). I looked at the Private Act for Giles County and could not find any provision that says that citizens will be allowed to speak at Commission meetings. Is there any other resolution or ordinance that makes such an allowance? Also, I am assuming that the public hearing that is described in Tenn. Code Ann. Section 5-12-108 and 5-21-111 (I have cited both provisions because I am not sure which Budget Act Giles County operates under) has already occurred. Is that correct?</p>
	<p>Citizen made a public records request to the Department of Education for emails and was told the emails were only maintained for 3 months. Is that ok? Also, was the executive session that the Davidson County School Board went into last week permitted?</p>	<p>It is possible that the automatic deletion for executive branch records is 3 months and if the content of the emails were such that they were not subject to an RDA, the records could have been deleted immediately. As far as the situation with the School Board, I am unaware of what occurred. However, I did discuss with him the parameters of going into executive session per the case law.</p>
<p>What can and cannot occur during executive session?</p>		<p>Look at this case. I think that this is probably the most informative case that we have on executive session in Tennessee. The analysis in this case is excellent. <a href="http://scholar.google.com/scholar_case?case=13075839896385948366&amp;q=Anderson+v.+Smith+County&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=13075839896385948366&amp;q=Anderson+v.+Smith+County&amp;hl=en&amp;as_sdt=2,43</a> Also, here is the link to a case that defines "deliberation." <a href="http://www.leagle.com/xmlResult.aspx?xmlDoc=ln%20TNC0%2020091211565.xml">http://www.leagle.com/xmlResult.aspx?xmlDoc=ln%20TNC0%2020091211565.xml</a> Please let me know if you have additional questions.</p>

Question	Issue	Resolution
<p>On Tuesday, the City Commission held a workshop where Car Show Committee members where asked by the Commissioners to make their points and recommendations to the Commission. Based on the input, the Mayor stated the Committee needed to meet again very soon and discuss more recommendations to the Commissioners. During the meeting they tried to express the Committee was not selected by the Commissioners nor did it comprise elected officials thus it was not required to meet publicly. May 1st article in the Mountain Press clearly stated "members of the City Commission concurred Monday afternoon the best course is to appoint a group of officials and business leaders to come up with solutions to the negatives" and in today's Mountain Press article "Car Show Corral's May be Ahead" front page reads "That committee met just once, but brought its recommendations to the commission during a workshop Tuesday afternoon." Comments to this online article can be read at The Mountain Press - b Car show committee proposed b and are just as informative on how appointments are being made. Several of these boards, despite appointment by the City Manager are made public. Question is, if these boards/committees meet and recommend suggestions to the Commission for which tax payers money is utilized to support/fund these recommendations, are these meetings open to the public? Realize you are busy, but I'm now told I cannot attend the Car Committee Meetings as they are not public. The next meeting is too take place very soon under the direction of the Mayor. Would like to know if their statement is correct or in-correct in time to attend this meeting.</p>	<p>Reporter was sent a copy of the email that I sent to Mr. Rhodes with the attachments. Asked that I explain the difference between the present case and the situation in the AG opinion.</p>	<p>As we discussed before, I am of the opinion that since it appears that the authority of this Committee to meet came from the City Council, even though the Council may have informally delegated to the City Manager appointing members to the Committee, and due to the fact that the Committee is making recommendations to the City Council, the Committee is required to operate in accordance with the provisions of the open meetings act. My opinion is based upon the following language: It is clear that for the purpose of this Act, the Legislature intended to include any board, commission, committee, agency, authority or any other body, by whatever name, whose origin and authority may be traced to State, City or County legislative action and whose members have authority to make decisions or recommendations on policy or administration affecting the conduct of the business of the people in the governmental sector. <i>Fain v. Faculty of College of Law of University of Tennessee</i>, 552 S.W. 2d 752, 755 (Tenn. Ct. App. 1977).  <a href="http://scholar.google.com/scholar_case?case=7534029155256989704&amp;q=fain+v.+college+of+law&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=7534029155256989704&amp;q=fain+v.+college+of+law&amp;hl=en&amp;as_sdt=2,43</a> My opinion is also based upon the AG opinion at the attached link.  <a href="http://www.tn.gov/attorneygeneral/op/2006/op/op105.pdf">http://www.tn.gov/attorneygeneral/op/2006/op/op105.pdf</a> Please let me know if you have additional questions or concerns. The administration is well aware of my opinion on this issue, as I had a very lengthy conversation with both the City Manager and the Assistant City Manager when this issue was brought to my attention before, but I will forward Ms. Tester this email as well.  explained that in the situation in the AG opinion, the BVME did not have anything to do with the establishment of the takes force committee. However, in the present situation, the City Council said that they wanted a committee formed and recommended that it be done and they set out the issues that they wanted the committee to look at.</p>

Question	Issue	Resolution
	<p>A citizen sent the following email:</p> <p>Members of the Oak Ridge Board of Education: I was contacted by a concerned citizen that you have on your upcoming agenda a potential second and final vote to ban future video tapings of your meetings to include televised press. I was sure this was a misunderstanding until I consulted the agenda for your last meeting (found here) and read under A. Approval of Revised School Board Meetings Policy 1.400 that "No one shall bring a camera, camcorder or other photographic equipment to Board meetings without the consent of the Board." This proposed change is very concerning because it would essentially eliminate what little transparency your board currently</p>	<p>I spoke with Ken who wanted to let me know that the City Attorney's office was not involved in this issue because the School Board is represented by Chuck Cagle. I also forwarded him the AG opinion and told him that I would follow up with Ms. Baughn.</p>
	<p>Family member is an alderman in Moscow and the Mayor called him and all of the other alderman and asked for permission to make a purchase in an amount that requires Board approval. Is that legal or should that decision be made in a public meeting?</p>	<p>Per our discussion, please see the attached links and information. This is a link to the open meetings act.  <a href="http://www.comptroller1.state.in.us/openrecords/pdf/Open%20Meetings%20draft8-44-101.pdf">http://www.comptroller1.state.in.us/openrecords/pdf/Open%20Meetings%20draft8-44-101.pdf</a> The basic premise of the Act is that any time two or more members of a governing body meet and deliberate towards or make a decision on public business, the meeting has to be open to the public and adequately noticed. If only the Board has the authority to approve purchases in excess of \$500, those decision are required to be made by the Board in an adequately noticed public meeting and not in secret, as secret votes are prohibited pursuant to Tenn. Code Ann. Section 8-44-104. The Private Act for the City of Moscow says the following with regard to voting on issues, "Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal."</p>
	<p>The Mayor is calling the aldermen and asking each of them for permission to make a purchase over \$5,000 which is a decision that only the alderman can make. Is this polling legal?</p>	<p>In my opinion no, as the Mayor is a member of the Board of Mayor and Aldermen. Any decision that is made that requires Board approval should be made at an adequately noticed public meeting in my opinion.</p>

Question	Issue	Resolution
<p>I'm requesting your advice concerning the Loudon County Board of Education and Open Meetings Act. At the Sept. 6, 2012 workshop meeting (attachment), director of schools Jason Vance said, "We" have modified our school board workshops slightly". This matter was not on the agenda. Up until the abrupt procedural changes it has been the school board's standard practice for visitors to speak twice, at the beginning and end of workshop and regular board meetings. There are two places on the agenda for anyone who wishes to address the Board about "any matter on the agenda or not on the agenda" (Attachment - Sept. 1, Called Meeting, Aug. 9 Workshop, Aug. 9 Regular Meeting). Outline of new procedural rules: 1. Workshop Meetings - At the beginning of the agenda, the elimination of citizen comments regarding "any matter on or not on the agenda". The second comment period at the end of meeting would remain the same. 2. Regular Meetings - At the beginning of the agenda, citizen comments were eliminated on "any matter not on the agenda." At the end of the agenda, citizen comments were eliminated on "any matter on or not on the agenda". Now, citizen comments will be limited to speaking at the beginning of the meeting once, on "any matter on the agenda".</p> <p>Supplemental information: 1. Workshops - The director of schools, Chairman Johnson and Vice Chairman Tate justified the elimination of public comments at the beginning of workshops because the board purportedly does not deliberate or vote but that is not the case. At a workshop meeting, the board deliberated on the director's contract "Board of Education mulls over director contract" <a href="http://www.loudon.xtn.net/story/12985.2">http://www.loudon.xtn.net/story/12985.2</a>. Formal workshop minutes are not</p> <p>Members of the Oak Ridge Board of Education: I was contacted by a concerned citizen that you have on your upcoming agenda a potential second and final vote to ban future video tapings of your meetings to include televised press. I was sure this was a misunderstanding until I consulted the agenda for your last meeting (found here) and read under A. Approval of Revised School Board Meetings Policy 1.400 that "No one shall bring a camera, camcorder or other photographic equipment to Board meetings without the consent of the Board." This proposed change is very concerning because it would essentially eliminate what little transparency your board currently offers the public. As we are all aware, the local print media is stretched so thin that they cannot always cover your meetings - but local cable access DOES. Furthermore, since often times your agendas are not posted online until just a few business days prior to a meeting (I recall that your June meeting did not go online until only one business day prior) and since your meeting minutes are often not published until months after a meeting has occurred and because there is always a city council meeting occurring at the same time as your regularly scheduled meetings, transparency is even further diminished. I request that you reconsider your stance on this issue if you voted in favor of this policy change. I respectfully request a draft copy of the meeting minutes from the August 27, 2012 meeting to include your discussion of this matter as well as your recorded votes. Because your next meeting and subsequent vote is scheduled for September 24th and because the Open Records act would allow you until after this meeting to fulfill any formal request, I request an exception to policy and would like to review and</p>		<p>I reviewed all of the information that you sent to me. I think the most important issue for you is whether or not there is actually a policy that the School Board has adopted that sets out how comments will be received from citizens or whether or not there has just been an accepted practice. From my perspective, even if there is a policy, I do not think that the Board will be violating the open meetings act by changing the manner in which citizens can comment upon issues on and off the agenda, but rather, they may be violating board policy. The open meetings act does not give citizens the right to speak at public meeting. A number of open meetings cases in Tennessee make it clear that while citizens have the right to attend meetings, not all citizens have the right to participate in the meetings. See Souder v. Health Partners, Inc. 397 S.W. 2d 140 (Tenn. Ct. App. 1998). With regard to the issue relative to the minutes, the open meetings act says the following in Tenn. Code Ann. Section 8-44-104: The minutes of a meeting of any such governmental body shall be promptly and fully recorded, shall be open to public inspection, and shall include, but not be limited to, a record of persons present, all motions, proposals and resolutions offered, the results of any votes taken, and a record of individual votes in the event of roll call. If the comments from the Director do not fall into any of the categories of information required to be in the minutes per the statute, then the minutes are sufficient. Additionally, while the standard practice of most governmental entities is to have the minutes of meetings approved by the governing body at some point during the next meeting, this also is not a</p> <p>I was forwarded the email below that you sent out. I think that you probably have my old email address because I did not receive the email directly. The new open records email address is <a href="mailto:open.records@co.tn.gov">open.records@co.tn.gov</a>. I think that one of the things that you may want to do is call the AG's office and ask them to send you a copy of AG opinion 95-126. This opinion addresses the issue of a blanket ban on the use of recording equipment in public meetings. The number that you can call to request a copy of the opinion is (615) 741-2518.</p>

Question	Issue	Resolution
	<p>Alderman wanted to discuss again the issues of providing permission to act over the phone instead of in a public meeting and also wanted to discuss what could happen at a work session.</p>	<p>Below is the email that I sent last week. Additionally, no matter what the gathering is called, it is the opinion of this office that anytime multiple members of a governing body meet and deliberate towards or make a decision on public business the meeting is required to be adequately noticed, open to the public, and there has to be minutes of the meeting. See the opinion at the attached link for more information related to this issue.</p> <p><a href="http://www.comptroller1.state.tn.us/openrecords/pdf/10-07MeetingsAndMinutes.pdf">http://www.comptroller1.state.tn.us/openrecords/pdf/10-07MeetingsAndMinutes.pdf</a>.</p>
<p>There is a vacancy on the county commission and it needs to be filled but it is too late to put the issue on the ballot. Are there any specific notice requirements for filling the vacancy?</p>		<p>I believe Tenn. Code Ann. Section 5-5-111 addresses your question. The provision reads: (a) (1) Whenever an office is required to be filled, or a vacancy occurs in any office required to be filled, by the county legislative body, the county clerk shall provide notice to every member of the county legislative body of the need to fill the office or vacancy. If the office of county clerk is vacant, the notice shall be provided by the county clerk's deputy. If, in addition, there is no deputy county clerk, notice shall be provided by the acting chair of the county legislative body. In accordance with § 8-48-108, the formal notice to members required by this subdivision (a)(1) is directory and may be waived by the members of the county legislative body if all members have constructive notice of the vacancy or opening through other sources of information. (2) In addition to the notice provided for in subdivision (a)(1), the presiding officer of the county legislative body shall cause public notice to be given in a newspaper of general circulation in the county at least seven (7) days prior to the meeting of the body at which the office is to be filled, notifying the public of the vacancy or opening and specifying the office or offices to be filled at the meeting. (b) Before the county legislative body votes or considers any motion or resolution regarding the office to be filled, the chair shall allow registered voters of the county an opportunity to submit names to the county legislative body for consideration. The names may be submitted in writing to the chair prior to the meeting or may be submitted in person at the meeting. In order for a name to be considered, a member of the county legislative body must subsequently</p>

Question	Issue	Resolution
<p>Up until the Sept. 6 workshop meeting, the board followed the public comment procedures and rules that were adopted on April 15, 2010 (Minutes – previously submitted by earlier email). I attended an open government seminar and that when I learned that the Open Meetings Act does not give citizens the right to speak at public meeting but citizens have a right to attend meetings. The question remains unanswered, when did the Policy Committee and Loudon County Board of Education meet in public to conduct business, vote and adopt changing citizen comments procedures and rules? I cannot answer that question and I am not sure that they did. In my mind, a policy is something that is written down and officially adopted by a governmental entity. I see in the minutes where the Board decided to allow public comment, but I have not been provided with nor can I find an actual policy. It seems to me that this was more of a practice that the Board voted on as opposed to a policy that was formalized. Additionally, if there was not a formal policy that was ever adopted on this issue, I do not think that this is an issue that would have been required to go through the Policy Committee and if this is something that the Director came up with on his own, it is very possible that the Executive Committee never discussed the issue. The following has been the board's practice. The Policy Committee meets, examines and makes recommendations about policy changes, which is then discussed by the board at a workshop meeting. Followed by, at regular meetings the board considers and adopts (two separate readings required unless waived by the board). 1. Policy Committee &amp; Policy Development and Adoption 1.600 - "A proposed policy or</p> <p>I have a question about whether a non-profit is covered by Tennessee's Public Meeting law. Specifically, Section 8-44-102(b)(1)(B) includes non-profit companies that contract with "a state agency" to receive community grant funds in consideration for rendering services to the public if the community grant funds comprise at least 30% of the total annual income of the corporation. My question relates to determining what is a "state agency". If a non-profit receives grants funds from a county or city, would the county or city be considered a "state agency"? Thank you in advance for your clarification.</p>		<p><b>Resolution</b></p> <p>1. See response above. Also, here is a link to the actual policies of the Board and there is nothing in the policies that I found related to permitting citizens to speak at public meetings.</p> <p><a href="http://boardpolicy.net/documents/type.asp?iType=1&amp;Board=21">http://boardpolicy.net/documents/type.asp?iType=1&amp;Board=21</a> 2. <a href="http://tsba.net/About_TSBA_Affiliates/TSBA_Awards/Board_of_Distinction">http://tsba.net/About_TSBA_Affiliates/TSBA_Awards/Board_of_Distinction</a>. If the Board is deliberating towards or making decisions at a meeting, minutes are required, but the minutes are only required to reflect those items that are specifically listed in Tenn. Code Ann. Section 8-44-104. By saying that the Board "favored" going through the process, are you saying that one of the Board members actually proposed that the Board go through this process and the others did something in affirmation of the proposal? I ask this question because the statute requires minutes of meetings to "include, but not be limited to, a record of persons present, all motions, proposals and resolutions offered, the results of any votes taken, and a record of individual votes in the event of roll call." Tenn. Code Ann. Section 8-44-104. 3. I will be more than willing to write a letter to the Board if the executive committee is meeting outside of an adequately noticed public meeting and deciding upon issues that are related to public business, but I need to know that happened before I write the letter.</p> <p>There is no indication in the newspaper of who the "we" is that had been looking at the issue. Was it a member and the Director or was it the Director and his staff? Also, the newspaper seems to indicate that the practice has been changed, but the blog seems to indicate that the issue is still up for debate. Do</p> <p>I do not think so. I think that this provision is specific to entities that contract with actual State agencies and not political subdivisions of the state. If you look at the provisions that follow this particular one, you will see that those provisions set out specifically that they are relevant to municipalities and counties. It is possible that the entity is still subject to the Tennessee Public Records Act based upon the fact it is the functional equivalent of a governmental entity or based upon the fact that the entity is statutorily subject to the Act, but I do not think that it will be subject based upon this provision.</p>
<p>Can the Commission members email back and forth with one another?</p>		<p>It depends on whether or not the emails are informational or deliberations. We discussed what deliberations look like and I emailed her the Johnston opinion.</p>

Question	Issue	Resolution
	Open meetings question has been presented to the office. Please respond.	As I understand it, the question is whether or not the County Mayor, a county commissioner, a school board member, and Superintendent can meet to discuss the budget outside of an adequately noticed public meeting. According to the Hamilton County private act, the Mayor is a non-voting ex-officio member of the County Commission. According to the open meetings act, a meeting occurs when members of a governing body convene to deliberate towards or make a decision on public business. While the Mayor may not be able to vote in the meetings of the County Commission, the private act does not prevent him from making recommendations to or deliberating with the other members on issues before the Board. As such, it is the opinion of this office that anytime the Mayor and a member of the County Commission meet with one another or a group of other individuals in order to deliberate towards decisions on issues that will come before the entire County Commission for consideration, the meeting is required to be open to the public and adequately noticed. If there is no deliberation taking place or decisions being made, it is the opinion of this office that a "meeting" as defined in the public records act has not occurred and as such, the gathering is not required to be noticed or open to the public.
Attorney asked about the procedure for establishing an Internet forum.		We discussed the procedure set out in statute and what would need to be submitted to this office for approval.
City of McMinnville City Council added a resolution 5 minutes before the meeting and voted on it. Are they allowed to add items to the agenda once it is posted?		I explained to that the case law is mixed right now. Some opinions say that there does not have to be an agenda published for a regularly scheduled meeting and other cases say that there needs to be one, especially when there is an issue of importance to the community on the agenda and once an agenda is published only those issue contained in the notice and agenda should be discussed at the meeting.
Citizen forwarded the office an Open Meetings Complaint letter dated 9-21-2012 to Mayor Ed Mitchell		I sent the County and open meetings later based upon the complaint.

Question	Issue	Resolution
<p>I'm in Marshall County today and the county mayor has the following question on a very hot topic. I thought it would be best to involve you in this as if citizens complain, then they will probably wind up speaking with you. Here is the question: "Does the county commission have the authority to limit the number of speakers and time for speaking at the public hearing concerning the Jackson Law? The county typically allows 3 minutes and up to six speakers for other issues?" Kristy Brown (with our office and I copied her on this email) has opined the following: I believe they can place reasonable time limits on speakers (three to five minutes) but I am uncomfortable limiting who can speak at a public hearing. If they are concerned, I believe they could require speakers to sign-up in advance. The notice of the hearing should clearly list any time limits and/or requirements to speak (requirement to sign-up in advance). The mayor is fine with Kristy's opinion and appreciates the info, he just wants a more definitive opinion on the ability of the commission to limit the NUMBER of people that speak at the public hearing that would allow TDEC to approve/disapprove the proposed expansion site for a private landfill. Once again, just wanted to involve you in the discussion as you would probably be the state official who would receive a complaint from a citizen that was not allowed to speak. Normally, it is in the approved Marshall County Commission's written policy to allow a maximum of six speakers (3 for/3 against) for three minutes apiece to speak on issues before the commission. This is a long standing policy and there has never been an issue with this before. However, this is an issue that can excite folks and it also deals with a specific law (Jackson Law).</p>		<p>I believe they can place reasonable time limits on speakers (three to five minutes) but I am uncomfortable limiting who can speak at a public hearing. If they are concerned, I believe they could require speakers to sign-up in advance. The notice of the hearing should clearly list any time limits and/or requirements to speak (requirement to sign-up in advance). The mayor is fine with Kristy's opinion and appreciates the info, he just wants a more definitive opinion on the ability of the commission to limit the NUMBER of people that speak at the public hearing that would allow TDEC to approve/disapprove the proposed expansion site for a private landfill. Once again, just wanted to involve you in the discussion as you would probably be the state official who would receive a complaint from a citizen that was not allowed to speak. Normally, it is in the approved Marshall County Commission's written policy to allow a maximum of six speakers (3 for/3 against) for three minutes apiece to speak on issues before the commission. This is a long standing policy and there has never been an issue with this before. However, this is an issue that can excite folks and it also deals with a specific law (Jackson Law). Good morning! I agree with what Kristy wrote in her email. Because citizens do not have the right to speak at public meetings, unless specifically provided for in a governmental entity's private act, charter or bylaws, I do not see a problem with limiting the number of individuals who can speak at the public meeting. However, in my opinion, when the forum is a public hearing, I do not think that the number of speakers can be limited. After reviewing Tenn. Code Ann. Section 68-211-701 et seq., it appears the inquiry that you sent reads as follows: Regarding the lack of notice or public inspection of a resolution passed by the Shelby County Election Commission on June 13, 2012, item #07/06/2012 prepared by Richard Holden, entitled "Resolution to Approve Precinct Changes". In the meeting, Mr. Holden, Administrator of Elections for the Shelby County Election Commission, indicated that the resolution had been drafted minutes before the start of the meeting, and indeed was the reason for being late. I attended this meeting and recorded on a personal device the proceedings. The minutes of the June 13th meeting have not been published as they were not approved last night (July 18, 2012) at the monthly meeting of the Shelby County Election Commission. Was this resolution required to be sunshined? Did the Shelby County Election Commission follow said sunshine protocol? And if not, what remedy is available? The answer to your question about whether or not the resolution was "required to be sunshined" depends on a number of factors. First, if this meeting was a regularly scheduled meeting, the courts have held that the notice for the meeting does not have to include an agenda. However, if the meeting was special called (or one that is not routinely scheduled by vote of the Commission i.e. the first Thursday of every month at 6:00 p.m. via a resolution or ordinance), then the notice is required to contain every issue that the Commission plans to address or have addressed at the meeting. If the meeting was special called, it is only those things that were in the notice that were permitted to be addressed at the meeting. If the meeting was a regularly</p>
	<p>I'm writing to follow up on an inquiry I placed in July regarding County Election Commissions publishing resolutions before a public meeting. The specific case involves precinct consolidations in Shelby County and the lack of disclosure of the resolution until minutes before it was approved. Thank you in advance for your assistance. Steve Ross</p>	

Question	Issue	Resolution
<p>Our local school board has announced a special called meeting this week, the entirety is scheduled to be conducted in executive session with an attorney. Can you assist with information regarding Executive Session and what the role/actions of the media should be? I have reviewed your site for prior opinions, and have looked at other sites as well -- what I'm missing is clear guideline for my own reference. Any recommendations you can make would be well-appreciated.</p>		<p>I am not sure how you handled this meeting, but essentially, there is nothing that the public or the media can do when an entity goes into executive session with the attorney for the Board except be observant about a few things. Executive Sessions are not considered meetings for purposes of the Tennessee Public Records Act. However, what can occur during an executive session is very narrowly set out in the relevant case law. Executive sessions are intended to be private gatherings between an attorney and his/her client related to pending or contemplated litigation. During the executive session, the client (the Board) provides the attorney with facts related to the pending or contemplated litigation and the attorney provides the client legal counsel related to the litigation. At no point during the executive session is the client permitted to deliberate towards or make any decisions. All deliberation towards and the making of any decisions have to be done at an adequately noticed public meeting. So, even though there really is no role for the media or citizens in the executive session process, you may want to look to see if the attorney really is meeting with the client and then listen to make sure no one references any discussion or decisions that were made during the executive session. I have attached a link to a case for your review.</p> <p><a href="http://scholar.google.com/scholar?case=13075839896385948366&amp;q=smith-h-county+educational+association&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar?case=13075839896385948366&amp;q=smith-h-county+educational+association&amp;hl=en&amp;as_sdt=2,43</a> I think that this case is one of the better cases that we have in Tennessee as far as explaining how an executive session should occur.</p> <p>This afternoon we discussed hypothetical situation involving the open meetings act. Generally, her questions were what remedies would a court have if the court found a violation occurred. I discussed with her that typically what I have read in the case law is that the court will issue an injunction, nullify any action taken and then the entity will be required to report to the court for a year. We discussed the fact that no monetary penalties are levied and that removal from the entity is not a remedy that the court has in an open meetings lawsuit (although ouster suits might follow). Additionally, we discussed the fact that hypothetically, any entity that violated the act would have the ability to cure any violation on its own. We discussed the fact that even if a governing body did not make a decision, but rather deliberate towards a decision in violation, the entity could place the issue back on the agenda for an adequately notice public meeting and have a public discussion on the matters that were deliberated privately. I told her that I have advised entities in the past to take this approach especially when the entity subsequently makes a decision based upon the private deliberation and the discussion that the entity has at the time the decision is made is not substantial. I discussed with Ms. Ferguson the fact that I will be happy to talk through these issues with her in the future, but I also discussed with her that since you are the person who would have to defend a state level entity, she really needs to speak with you. I gave her your name and number. **Ms. Ferguson, please call Janet at 741-7403 so that you can discuss your additional question with her and she can give you any other thoughts that</p>

Question	Issue	Resolution
<p>The Smyrna Housing Authority, which is only basically bonded (in a matter of terms) by the Town of Smyrna and we do not have any controlling vote on their Board of Directors, wants to interview applicants for the position of the director (which is basically the manager of the Housing Authority and does NOT have a voting presence). They have asked about having the current (non-voting) director, a consultant and a Board of Directors member interviewing applicants and wanted to know if this would violate any Sunshine or Open Meeting requirements. They followed up by asking if they could have two voting Board of Director's members present at the interviews? Here are my thoughts, but I wanted to ask the expert. I would surmise that if the one board member, the director (non-voting) and the consultant met with the applicants that this would not be applicable to the open meeting legislation since there is only one voting member present. I also believe that if they are simply obtaining information and not deliberating towards a decision, that even having two members present for the interview would be permissible. Obviously, one would need to be careful not to act in such a manner as to present some form of deliberation; but I would not believe it to be an open meeting. The Board of Directors will ultimately choose the new Director from the list of applicants in their formal open meeting when the time comes. What are your thoughts? Do you believe they should avoid having two members of the voting body attend the interviews? Or since they are not deliberating, they could have any number of members present? I would, personally, be nervous about having the entire board present, simply for the appearance of possible deliberations, but just as the Governor's Council on Service Members, Veterans, and Families required to notice its meetings?</p>		<p>Discussed the fact that I think that if the director has the ability to deliberate with the Board, even if the director does not have the ability to vote, then it would be a violation for the director and the board member to meet and make this decision together and the same is true if two other board members were given this authority.</p>
	<p>Citizen believes that there was an open meetings violation by the BOMA for the City of McMinnville relative to the renewal of the City Administrator's contract.</p>	<p>I reviewed Governor Haslam's Executive order that reconstructed the Council on Service Members, Veterans, and Family and I also reviewed the original Executive Order establishing the Council. After my review, I also contacted Janet Kleinfelter in the AG's office about whether or not the Council is required to notice its meeting. After looking at all of the information that I could find, it is not clear to me exactly what the function and authority of the members will be. Additionally, while it is clear that the Council is created pursuant to the Governor's authority, most entity's that are subject to the Act have been created by legislative action. Based upon these factors, it is not clear whether or not the Council is required to notice its meetings. Due to the fact that Janet is the individual who advises State agencies on open meetings issues, I strongly encourage you to call her about this issue and she will further advise you about the discussion that we had. She is expecting your call and can be reached at (615) 741-7403.</p> <p>We discussed what exactly this office could do in response to his request and he said that he would provide me additional information about the alleged violation. Open Meetings letter sent on 11-05-2012 based upon information provided by other members of the community.</p>

Question	Issue	Resolution
<p>The board has experienced some tensions recently, and wanted to go into private session so they could hash things out and speak freely to one another. They called the executive session meeting for that purpose originally, but when the public notice was posted, tensions regarding our supt. went into overdrive. I believe the meeting ended up being a discussion (With the TSBA attorney) about the steps toward buying out the superintendent's contract. The school board holds their regular monthly meeting tonight. There is not an item on the agenda regarding the superintendent, but he has suddenly taken vacation days beginning today through Nov. 1. Questions: 1. If a school board wishes to hold a "come to Jesus" meeting and resolve personal disagreements, without deliberating a topic, may they do so privately? 2. If the school board holds an executive session meeting and there is no litigation current, pending or anticipated, was this meeting in violation of the Sunshine Law?</p>		<p>1. If the disagreements are related to the manner in which certain school board or district issues are being handled, then the meeting needs to be open to the public and adequately noticed. If the Board members are not deliberating towards or making decision on board or district business, the open meetings act is not triggered. 2. The only time that a Board can go into executive session is to discuss current or pending litigation, unless the Board is meeting under the audit committee provision in Tenn. Code Ann. Section . If a school board were to meet in executive session for any purpose other than these, the meeting would likely be a violation of the open meetings act if the board members deliberated towards or made a decision during the meeting.</p>
<p>I was in a THDA Board meeting and I was told that I could not record the meeting with my camera. Is that a violation of the open meetings act?</p>		<p>I emailed Ms. Smith on the day that you contacted the office and provided her with the information relative to the complaint and a copy of the AG opinion. I had been in contact with Ms. Smith primarily, but also some attorneys for THDA that day regarding another matter and was told that she is the primary point person on open records request and so I wanted to make her aware of this open meetings issue as well. I have not had any subsequent contact with THDA on this issue. If you would like a copy of that email, I will be happy to provide it to you. If my memory serves me correctly, when I sent the email, Ms. Smith responded back with a thank you for the information. I looked in my delete file for the email, but it is no longer in my trash. I did not send a letter to the Board in this situation because in looking at the AG opinion I referenced in the email, the AG's office opined that the blanket ban on recording equipment is more of an issue under the First Amendment and Article 1, Section 19 of the Tennessee Constitution than the Tennessee Open Meetings Act, even though part of the analysis in the opinion deals with the open meetings act. Good afternoon. I documented your complaint and closed it after I contacted the agency the to let them know that a complaint was made. Based upon my reading of the AG opinion that deals with this issue, this is an issue has more to do with the First Amendment and Article 1, Section 19 of the Tennessee Constitution than it does with the enumerated provisions of the Tennessee Open Meetings Act. The Open Meetings Act requires governmental entities to provide adequate notice to the public of its meetings and hold meetings that are open to the public.</p>
<p>Is there any restriction or violation of rules on using color in a (required) public notice we post for the United Tennessee Veterans Association meeting?</p>		<p>It appears that the Department does not have any rules and I did not find anything in the statute that addresses using color in a public notice. As such, it seems to me that as long as the notice meets all of the other time and content requirements, using color in the notice is acceptable as long as the notice can still be read by the public. I have also copied Janet on this email so that she can also weigh in on the question with any additional thoughts or concerns.</p>

Question	Issue	Resolution
<p>Does the Civil Service Commission for the City of Johnson City TN fall under the TN Open Meetings Law as noted in T.C.A. 8-44-102, among other sections, otherwise known as Sunshine Law? The City of Johnson City, City Charter establishes a Civil Service Board, duly voted by the electorate. Sec. 151. Composition of commission. There is hereby created a commission to be composed of five (5) members, to be known as the civil service commission of the City of Johnson City. [Ord.No. 2586, § 1(1), 8-27-86]</p> <p><a href="http://www.mtas.utk.edu/public/CHARTERS.nsf/0/31D581F563D29DA8852568CC0061DB32/\$file/JohnsonCity.Cht.pdf?OpenElement">http://www.mtas.utk.edu/public/CHARTERS.nsf/0/31D581F563D29DA8852568CC0061DB32/\$file/JohnsonCity.Cht.pdf?OpenElement</a> (scroll all way to last few pages) The city legal department, Jim Epps, Staff Attorney, <a href="mailto:mckee.epps@johnsoncitytn.org">mckee.epps@johnsoncitytn.org</a> has opined that the Civil Service Commission of the City of Johnson City is NOT subject to the TN Open Meetings Law. Sorry that I do not have anything in writing from Mr. Epps as to particulars of his conclusion. This information was relayed to me by the Chief of Police Mark Sirois. I am aware that electronic voting has been taking place concerning the Civil Service Commission and very few legal public meetings have taken place over the past couple years. This based on the minutes of the Civil Service Commission that I have been provided. It appears from my reading of the minutes, that much voting over the past couple years is being conducted by means other than public meetings. I am in disagreement with the City of Johnson City official stand that our Civil Service Commission does not fall under the open meetings laws of the State of Tennessee, based on several court decisions as well as your March 2011 Report to the</p>		<p>Resolution</p> <p>I received the email that you sent below. While it would seem that the Civil Service Board would be subject to the Open Meetings Act, please take a look at the case at the attached link.</p> <p><a href="http://scholar.google.com/scholar_case?case=335313203815018864&amp;q=redmondv.+city+of+memphis&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=335313203815018864&amp;q=redmondv.+city+of+memphis&amp;hl=en&amp;as_sdt=2,43</a>. I did some research and Johnson City also has a Home Rule charter just like the City of Memphis. While this case is an unreported opinion, it directly addresses the issue that you presented and it appears to be where the law is on this issue. The AG's office released an opinion a few years ago that opined that when a particular civil service board conducted interviews for a position, that interview process constituted deliberations and that particular meeting was required to be adequately noticed and open to the public. I will be more than happy to speak with Mr. Epps if you would like, but it appears that the case law supports his position on this issue. Please just let me know how you would like for me to proceed.</p>
	<p>Citizen reported a possible open meetings violation by the McMinnville BOWA- renewed the City Manager's contract during a meeting that was noticed with an agenda for the public. Added the renewal resolution the agenda at the beginning of the meeting.</p>	<p>See the attached open meetings letter.</p>
<p>I have requested the recently formed Gatlinburg Visitors and Convention Bureau, operating as a contract agency carrying out government functions of the City of Gatlinburg (possibly GVCB is a DBA name for a Tourism Authority serving as the umbrella agency), make available minutes of board of director meetings along with draft minutes for the most recent meeting. The minutes have been released but they seem to have a reluctance to release the draft minutes until the board approves those minutes. Could you clarify the duty imposed by the open records laws to release minutes, be they in final or draft form? If you would be so kind as to respond directly to me I shall then possibly share your information with the GVCB.</p>		<p>There are very few exceptions for the release of draft documents in the Tennessee Code. Most of the exceptions related to drafts are for working papers and most of for the working papers of auditors. I am not aware of any exception within state law that permits a governmental entity or any other entity that is the functional equivalent of a governmental entity for purposes of the TRPA to deny a request for draft minutes of a meeting. If the draft minutes exist and a request is made for them, it is the opinion of this office that the draft minutes are required to be provided.</p>

Question	Issue	Resolution
<p>The University of Tennessee athletics board has been meeting twice a year without sending out a public notice or agenda on the meeting. In previous years, that meeting has been held during homecoming weekend, which would be Nov. 3, 2012. Instead, the meeting was held six weeks earlier on Sept. 15, 2012. There was no public notice about this meeting. Additionally, the school did not provide any notice after the meeting occurred nor did it provide any meeting minutes or information about what was discussed at the meeting. It's our understanding this would be a violation of the public meetings law. Is that correct? And if so, would it void actions taken during that meeting? In the past, there have been occasions where verbal notices have been discussed with reporters. Does this also violate the public meetings law, and in what form should notices about meeting be issued?</p>	<p>A 911 director was arrested for misappropriating some TBI equipment in the 911 center. The Board want to suspend her and they want to have a meeting immediately. What does the case law say about the time frame for posting notice for a special called meeting?</p>	<p>48 hours, absent exigent circumstances is going to be too little time...given that they have a meeting on the 13th, they might want to wait until then or have it sometime next week.</p>
		<p>I looked for information related to the role and duties of the Athletic Board and I have not been able to find anything. The fact that the Board met and did not provide the public with notice of the meeting or an agenda does not necessarily mean that there was a violation of the Tennessee Public Records Act. The only information that I could find through a Google search was a variety of articles that have been written by various reporters that outline what occurred at the meeting. All of the articles reference the Board listening to various reports from the AD and other staff members and committee chairs and one article mentioned the fact that a Board member commented on one of the reported heard, but none of the articles that span a couple of years mention any vote being taken or any discussion being had between the Board members on any issue. The open meetings act is only triggered when a governing body deliberates towards or makes a decision on public business. If the Board convenes to hear reports and does not deliberate towards or make decisions on public business while convened, the open meetings act is not triggered and while the Board could provide notice as a courtesy, it would not be required to do so pursuant to the provisions of the open meetings act.</p>
	<p>Stan Dobson is telling people that the election commission is going to hire him back at the meeting on November 19, 2012. Also, there was conversation at the last meeting where one election commissioner was asking another what steps he had taken on a particular project. Are either of these violations?</p>	<p>Not necessarily, unless Mr. Dobson said that some of the Commissioner told him they were going to hire him back, but if they have new and substantial reconsideration of the issue at the meeting on the 19th, they will have cured any violation. Also, all of the Commissioners know about the fire marshal issue (I know about it) so they may have each made some calls and contacts to try to come up with a solution.</p>
<p>At the Agenda meeting, a citizen asked to speak and was told that he couldn't. Is that a violation of the open meetings act?</p>		<p>No, the case law talks about being able to observe the process, but it says that citizens do not have the right to speak and participate.</p>

Question	Issue	Resolution
<p>If the city council goes into an "executive session" behind closed doors is the minutes from that meeting public record after the fact? Also during these sessions are they allowed to talk about anything that they want are is like a special called session were they can only talk about what is on the agenda?</p>		<p>No, there is nothing (notice or minutes) that has to be provided to the public if an entity goes into executive session in order to discuss threatened or pending litigation. However, the only thing that can occur in that executive session is the client (Council members) giving that attorney facts and the attorney advising the client about the legal issues related to the threatened or pending litigation. Any deliberation towards a decision or decision made has to be done at an adequately noticed public meeting. If the Council is meeting under that audit committee statutes, then there could be a number of issues discussed in executive session, but the members would have to vote to go into executive session and there would have to be notice provided to the public that the Council is planning to go into executive session.</p>
<p>(Interview) when can a governmental entity go into executive session?</p>		<p>Discussed the fact that it has to be related to threatened or pending litigation unless meeting under audit committee statutes and that can only give facts and receive advise. Cannot deliberate towards or make a decision until a adequately noticed public meeting.</p>
	<p>Citizen called to discuss an alleged open meetings violation.</p>	<p>Please see the attached open meetings letter that was sent.</p>
<p>Meeting tonight. Two people will be attending the meeting at 5:00 and the Third person will no be able to attend until 6:30 p.m. She needs to discuss some things with you prior to this. Can the meeting be postponed until 6:30?</p>		<p>In my opinion they cannot because they have to post adequate notice and they do not have enough time to do that at this point. They can have a special called meeting next week if she posts the notice today.</p>
<p>He wanted to know what would happen if you made a meetings complaint to our office.</p>		<p>Discussed the fact that a letter would be sent to the chairman of the board to inform them that there has been an open meetings complaint and the complaint would be reported to the General Assembly.</p>
	<p>A member of the City Council wants to discuss some issues that he has with the local police department at his last meeting as council member. He has asked the clerk to add to the agenda "Police." This agenda is published to the public prior to the meeting. Is that adequate in your opinion?</p>	<p>Since the agenda is published to the public prior to the meeting, I do not think that the agenda item "police" is sufficient. In my opinion the topic Police is not descriptive of what the issue is that is to be discussed and it does not give the public the type of notice contemplated.</p>
	<p>Is the General Assembly subject to the Open Meetings Act?</p>	<p>I emailed the reporter the Wilder opinion for her review.</p>
	<p>Received a complaint letter regarding what occurred during the November 15, 2012 meeting.</p>	<p>An open meetings letter sent.</p>

Question	Issue	Resolution
<p>Senator Beavers called this morning because apparently last night the Cannon County Election Commission planned to rehire the Election Administrator that was terminated back in July. I received a call yesterday while I was at LEAD from Beth Henry Robertson in the Secretary of State's Division of Elections. She told me that she received a call from one of the Commissioners who heard on the radio that the former AOE was going to be rehired at the meeting last night and that was not something that had been discussed at any public meeting. Beth then attempted to call the chairman so that we could discuss the language in the notice and the language on the agenda. We were not able to conference together until yesterday afternoon and at that time, I was told that the language in the notice and on the agenda read something akin to discuss and confirm the position of AOE. I indicated to the chairman that based upon the case law that I have discussed with him and sent him on multiple occasions, I felt that the language in the notice was ambiguous and did not meet the notice requirements set out in the case law, which includes the language of the notice being such that a reasonable person would know the issue to be discussed and/or decided upon. I also indicated that given the fact that there is already one lawsuit filed regarding how the July meeting was noticed and handled, I felt that they needed to be extremely cautious and make sure that the notice for any meeting where they were going to hire and/or fire someone adhered to the language in the applicable cases as much as possible. The chairman was upset because the issue was just being brought to his attention, but I told him and Senator Beavers that I just learned of the situation yesterday (which is unusual).</p> <p>Thanks for answering my Highway Board questions. We're taking steps to get a normal meeting scheduled in December.</p>	<p>Citizen feels that the local government in her community is violating the open meetings act and posed a serious of questions to be about what the act requires.</p> <p>Cannon County Election Commission did not take up the issue of rehiring Stan Dobson at the meeting last night based upon advice provided by this office. What was that advice?</p>	<p>We discussed generally what triggers the open meetings act and the fact that in order for there to be a violation, there has to be deliberation towards or the making of decisions and not just a gathering. We also discussed various scenarios where people with the county attorney as a group or one on one and whether or not those gatherings constituted a violation of the open meetings act.</p> <p>Senator Beavers called this morning because apparently last night the Cannon County Election Commission planned to rehire the Election Administrator that was terminated back in July. I received a call yesterday while I was at LEAD from Beth Henry Robertson in the Secretary of State's Division of Elections. She told me that she received a call from one of the Commissioners who heard on the radio that the former AOE was going to be rehired at the meeting last night and that was not something that had been discussed at any public meeting. Beth then attempted to call the chairman so that we could discuss the language in the notice and the language on the agenda. We were not able to conference together until yesterday afternoon and at that time, I was told that the language in the notice and on the agenda read something akin to discuss and confirm the position of AOE. I indicated to the chairman that based upon the case law that I have discussed with him and sent him on multiple occasions, I felt that the language in the notice was ambiguous and did not meet the notice requirements set out in the case law, which includes the language of the notice being such that a reasonable person would know the issue to be discussed and/or decided upon. I also indicated that given the fact that there is already one lawsuit filed regarding how the July meeting was noticed and handled, I felt that they needed to be extremely cautious and make sure that the notice for any meeting where they were going to hire and/or fire someone adhered to the language in the applicable cases as much as possible. The chairman was upset because the issue was just being brought to his attention, but I told him and</p> <p>Here is a link to the case we discussed.  <a href="http://scholar.google.com/scholar_case?case=7886648732575794470&amp;q=konvank&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=7886648732575794470&amp;q=konvank&amp;hl=en&amp;as_sdt=2,43</a></p>
<p>Please post on line as soon as possible, and run this Notice in the next two preceding editions of the Cannon Courier. Thank you! ELECTION COMMISSION MEETING SCHEDULED FOR MONDAY December 10, 2012 5:30 P.M. HELD AT THE CANNON COUNTY COURTHOUSE MAIN STREET WOODBURY, TENN. Agenda: 1.) Approve minutes from previous meetings. 2.) New Voter Registrations, inspect/process. 3.) Move to rescind actions taken by Commission at the July 2, 2012 Meeting regarding the termination of AOE Stan Dobson. 4.) Discuss and adopt if a consensus is reached, our Mission Statement that was tabled at previous meeting. 5.) Discuss and act upon adding Prayer and Pledge of Allegiance to our Monthly Meetings. 6.) Discuss and act upon resuming Commission Monthly Meetings at the Election Office. 7.) Discuss and act upon any matters that may properly come before Commission. 8.) Motion to Adjourn Matt Studd, Chairman Cannon County Election Commission from my HTC smartphone on the Now Network from Sprint!</p>	<p>Can they resend an action that took place in July?</p>	<p>There is nothing in the public records act that says that they cannot and there is nothing in the public records act that requires an entity to operate pursuant to Robert's Rules of Order.</p>

Question	Issue	Resolution
<p>Hi, I am Corey Davenport an Election Commissioner for Cannon County. Sorry to bother you, but I was hoping you guys could answer a question for me if possible.</p> <p>1. Do the TCA Codes require an agenda to be published prior to a public meeting? I know proper notice of meetings are required prior to a meeting, but I cannot seem to find anything about an actual agenda for the specific meeting being required to be published. I have noticed on different legislative bodies in the past that they will notify the public of an impending meeting, but never include an agenda. I have also noticed that if an agenda is actually published prior to the meeting often times it will have an "Other Business" section on the agenda with no topics listed. As the meeting progresses it has been some past practice in meetings I have attended to have 5-10 items not on the agenda all discussed under the "Other Business" category but not listed on any agenda. 2. Is that an acceptable / legal practice according to the TCA Codes to allow topics to be discussed and or decisions to be made under the "Other Business" section of an agenda? Can topics be discussed and or decisions made on the spur of the moment that are not on the agenda? I know the TCA Codes guidelines for a "Special Called Meeting" do not apply in the above examples. During those meetings the only thing that can be discussed is what is placed on the agenda and nothing else. All of the examples I refer to above would be for regular scheduled meetings.</p>		<p>Resolution</p> <p>1. For special called meetings yes. When a special called meeting is being held, only those items that are listed in the notice for the meeting can be addressed. This requirement in essence requires that there be an agenda for the meeting before the meeting occurs. The same is not true for regularly scheduled meetings. Generally, there is no statutory requirement that an agenda be published for a regularly scheduled meeting (there are a limited number of exceptions). Additionally, a lot of the case law related to the adequacy of notice for regularly scheduled meetings mentions agendas, but there is no appellate level case that requires that there be an agenda. In a recent opinion out of the federal district court for Middle Tennessee the court determined that when an agenda is published and made accessible to the public prior to a meeting, the agenda needs to contain those items that are actually going to be addressed at the meeting and especially those items that are of concern to the public. Additionally, in the Rutherford County chancery court opinion involving the mosque, the court held that anytime an issue of public concern is going to be deliberated upon or voted on at a meeting, the agenda and the notice for the meeting needs specify that the issue will be addressed. 2. Currently, there is nothing in statute or in case law that prevents public business from being brought up under the headings of "New Business" or "Other Business."</p> <p>However, given the way in which the case law seems to be heading, I would not suggest that an entity bring up any issue that could be of significance under either of these headings. When issues are brought up at the "spur of the moment" the Board will have to do any deliberating related to the applications at a public meeting and make its hiring decision at a public meeting. However, the deliberating and decision making does not have to be done at two separate meetings. The Board can review the applications, interview the candidates, deliberate on the matter, and make a decision at the same meeting. However, if that is the approach that is going to be taken, I suggest that the resumes and applications be sent to the members as soon as possible for review.</p>
<p>The director of the ambulance service which was hired by the ambulance authority board is retiring. They are currently taking applications for this position. Will the board need to have a public meeting to look over applications then another meeting to make a decision?</p>		

Question	Issue	Resolution
<p>I am seeking your knowledge on the openness of public hospital search processes am referring to the public hospital in Chattanooga, Erlanger Health System they are subject to the open records act and i regularly attend their meetings they did get a law passed a few years ago that allows them to hold more private meetings on the grounds that they involve sensitive projects when they had a search for a new president and CEO several years ago they announced several of their meetings and i attended they are going through the process now and have gotten down to the final 3 without any information on what was going on word got out about the final three and one of the trustees said that bothered her because by law it is private other lawyers tell me that is not correct would appreciate any thoughts and info you have.</p>	<p>The Jackson Madison County School System school board demonstrates a pattern of non-compliance with the letter and most certainly the spirit and intent of Sunshine Law in these respects: Recently, as in the past, the board held a "retreat" wherein matters subject to open meeting requirements were to be discussed. Prior to a story in the local paper on the very morning of this "retreat" there was no prior notice of an open "public meeting" despite the legal designation of any such gathering of a quorum of the board members as a "public meeting." Under the board's own web page under its "meetings" domain, no listing of this meeting appeared. On the school district's main page,</p>	<p>An open meetings letter was sent to the school system chairman and the attorney on 12-19-2012.</p> <p>To my knowledge there is no provision that would allow the hospital to go into executive session to discuss the hiring of a CEO. There is a provision that would allow the hospital to go into executive session to discuss a strategic plan.</p>

Question	Issue	Resolution
<p>I do appreciate your discussion and handout at the TV-report conference on Total Transparency you provided last week. It was very helpful. The question I have is in regard to your handout on "Test of Adequate Public Notice" and what the standard may be for a "reasonable notice" of a regular County Commission meeting and/or a "specially called meeting?"</p>		<p>Resolution</p> <p>As far as the notice requirements for a regularly scheduled meeting is concerned, neither the statute nor the case law sets out a time frame in which the notice must be posted. Additionally, there is case law that says that there is no requirement that the issues to be discussed at a regularly scheduled meeting be placed in the notice for the meeting. Additionally, there is no requirement that there be an agenda. However, there is also a new volume of case law that contemplates that when there is an agenda published to the public before a meeting, any issue that would be of interest or importance to the public, be listed on the agenda. Generally, there is no requirement that this type of notice be placed in a newspaper, just that it be placed in locations where interested individuals would become aware that a meeting was scheduled to occur. As far as the notice for special called meetings is concerned, the case law sets out that any notice posted less than 48 hours before a special called meeting is not adequate. However, there could always be circumstances that make notice posted less than 48 hours before a meeting reasonable. Additionally, the case law indicates that for special called meetings, only those items that are in the notice may be deliberated towards or decided upon at the meeting. The notice must also be placed in locations that would make the interested public aware that a meeting was going to occur in a time frame that is reasonable. Additionally, the language used in the notice must reasonably describe the issues that are going to be addressed</p>
<p>Open meeting question- which meetings have to have a public notice (interview)</p>		<p>I answered her questions about the open meetings act, but told her that I would not say that there was a violation because I was not there and also told her that I could not answer her question about whether or not the county attorney's resignation was effective given that the meeting was not properly noticed. I told her that I did not have enough information to answer that question because it is possible that that information was provided as a courtesy and not because any action had to be taken on it.</p>
	<p>There was a meeting held on December 10, 2012 of the AD Hoc Rules Committee. There was no public notice provided. What needs to be done in order to correct this issue?</p>	<p>We discussed scheduling a meeting as soon as possible (to be held at least 5 days from now) with notice that contains the issues to be discussed. I also told him that there needs to be "new and substantial reconsideration" of all of the issues discussed at the December 10th meeting.</p>
<p>Please review the following notice before it is sent to the newspaper for publication.</p>		<p>I reviewed the notice that he prepared and told him to include some additional language so that it would be clear that the rules would be reviewed at the meeting. Also told him to post the notice and an agenda around town.</p>
	<p>The board met again to discuss those issue discussed during the meeting on December 10, 2012. It took them 25 minutes to revisit issues that it took over 2 hours to resolve at the December 10, 2012 meeting. Is that acceptable?</p>	<p>Here are two cases that address the issue of "new and substantial reconsideration." I looked for a case involving a county commission and a committee and the notice requirements, but I could not find one.  <a href="http://scholar.google.com/scholar_case?case=2640067197608283858&amp;q=neese+v.+Paris+school+district&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=2640067197608283858&amp;q=neese+v.+Paris+school+district&amp;hl=en&amp;as_sdt=2,43</a>  <a href="http://www.leagle.com/xmlResult.aspx?xmlDoc=2007397258b5w3d139_1396.xml&amp;docbase=CSLWAR3-2007-CURR">http://www.leagle.com/xmlResult.aspx?xmlDoc=2007397258b5w3d139_1396.xml&amp;docbase=CSLWAR3-2007-CURR</a></p>

Question	Issue	Resolution
<p>I left you a voicemail earlier today regarding the purpose of my email. I seek guidance as how to proceed with a possible violation of the Sunshine Law here in Tullahoma, TN on Wednesday, October 17, 2012. The meeting was lead by our Mayor and attended by several alderman and 3 school board members. I, myself, am a member to the Tullahoma City School Board. The school board is in the process of a superintendent search. The purpose of the October 17, 2012 meeting was how to circumvent the superintendent search process. The school board chairman has called a special meeting to discuss a contract extension for the current superintendent. I don't know what the implications of this 'special meeting' are in light of the closed meeting of Oct 12. I would appreciate you expert opinion of how I must proceed to report the open meeting violation. I look forward to your reply.</p>	<p>The executive committee of the PD's conference met privately to discuss settlement parameters for a case. How do the minutes need to read?</p>	<p>As we discussed, in Tennessee, a governing body can only go into executive session with its attorney to discuss threatened or pending litigation. During the executive session, the client can provide the attorney facts about the litigation and the attorney can provide the client advice. Once the governing body has provided the facts and received the legal advice, the governing body is required to come out of executive session to deliberate towards or make any decisions on how to proceed based upon the advice received. I have attached the link to a case for you to review.  <a href="http://scholar.google.com/scholar_case?case=13075839896385948366&amp;q=smith-h-county+education+association&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=13075839896385948366&amp;q=smith-h-county+education+association&amp;hl=en&amp;as_sdt=2,43</a> I am of the opinion that the Board needs to readress the issue that was voted upon in executive session in an adequately noticed public meeting. Additionally, when readressing the issue, the Board needs to have new and substantial reconsideration of the issue. I have copied Janet Kleinfelter in the AG's office on this email as well since she is the attorney that would be representing the Conference if someone was to challenge what occurred at the meeting. Please let either me or Janet know if you have questions. Janet can be reached at 741-7403.</p>
		<p>Please send me as much information as you have about the meeting and what transpired during the meeting. Once you provide me with that information, I will send a letter to the School Board chairman and the Mayor addressing the information that you provide this office. See the attached open meetings letter sent.</p>

Question	Issue	Resolution
<p>Please find attached is a copy of the legal opinion from the Maury County Attorney regarding the meeting notices for the Ad Hoc Rules Committee for your review and comment. According to Mr. Daniel Murphy's letter dated Dec 27, 2012 he implies that you are in agreement with this opinion based on a conversation Mayor James Bailey had with you. I am writing to confirm that you are in such agreement with his letter of opinion, as it applies to Maury County's legislative sessions of the Commission, it's committee meetings and on all future "specially called meetings" of any Maury County "governing body" that has two or more elected commissioners involved. I am seeking your confirmation with Mr. Murphy's opinion for the sole purpose of obtaining a clear, consistent and concise practice for future Maury County "adequate public notice" of such called or special meetings so as to avoid any future confusion and potential conflict over proper adequate public notices regarding any decisions the governing body, committee or commission may make. Contrary to Mr. Murphy's assertion in his letter, such public notice postings have not been "typically" consistent or timely with regard to the means and method of such public postings. In his letter Mr. Murphy admits that the Ad Hoc Rules Committee is a Maury County "governing body" under the law with the authority to make decisions, rules and recommendations, but later states in his letter that the Maury County Ad Hoc committee is not a legislative body and therefore T.C.A. 5-5-105(c) five day notice requirement is not applicable to the Maury County Ad Hoc Committee. Clarification of this contradiction would be appreciated. Mr. Murphy also cites a 1974 Tennessee Supreme Court decision that</p>	<p>To whom it may concern, On October 17th a meeting of Tullahoma Mayor, Three Aldermen and Three School board members was held. From what I am told, the topic was how best to keep our current outgoing superintendent of schools and create a support for reinstatement. I am an elected school board member and I was not made aware of this meeting. Other board members were unaware of this meeting while the Mayor apparently invited only the ones that were pro the incumbent superintendent. Three board members requested a formal investigation to the Chairman Pat Welsh. We were denied. We were told to contact the City Attorney and one of our members did. We</p>	<p>I received the complaint that you made and in response, I sent a letter to the Chairman of the School Board and the attorney for the School Board.</p> <p>While I do not have the ability to confirm the dates that are outlined in the letter from Mr. Murphy, I can confirm for you that I did speak with Mayor Bailey on a couple of occasions once I was contacted about the notice for the December 10, 2012 meeting. I suggested to Mayor Bailey that notice be placed in several areas around the county (both public and private buildings) and I also suggested that notice be placed in the newspaper; however not based upon on Tenn. Code Ann. Section 5-5-105. As I explained to one of your Commissioners, I do believe that if the entire County Commission was meeting in a special called meeting, the provisions of Tenn. Code Ann. Section 5-5-105 would be applicable, but since, it is only a committee of the entire Commission, I cannot say for certain that provision has to be followed. When the Commissioner called and asked me the same question, I looked for cases in Tennessee where the notice for a committee of a County Commission was challenged and I could not find any cases. With regard to the applicability of Tenn. Code Ann. Section 5-5-105, I think that the argument that the County attorney makes is a good faith argument based upon the language in the statute, but I also think that it should be noted that a court could hold differently based upon the court's analysis of the totality of circumstances. I think that the best practice would be to place the notice for any special called meeting (entire Commission or committee) in a newspaper, especially if that is where the notice is generally published, but I cannot say for certain that for special called meetings of a committee, the notice is required to be in a newspaper. However, regardless of where the</p>

Question	Issue	Resolution
<p>As you may know we have begun the search for a new superintendent in Bedford County. I serve as the Board Chair and want to assure all is done correctly and within the law. My question relates to the applications we receive. We as a board are conducting the search. The applications are being received by a P.O. Box at the local post office. On January 8th, I will collect all applications, open (with the board secretary) prior to our noon special called meeting. The secretary will then copy all of the application packets for the board members and have ready to begin the review at the noon meeting on the 8th. My question is: I understand that we are in an open meeting and the applicants become public knowledge at that point. However, what documents must be made available to the media? Only the names or do we have to release the entire package? I feel that some of this information should not be made public; if so, do we need to redact certain things? Your advice and direction will be greatly appreciated! If you need, please call my cell at 931.703.3681. Thanks!</p>		<p><b>Resolution</b></p> <p>Unless one of the applicants is a current employee, all of the information submitted is a public record. I would not release any social security numbers if there are any in the information, but otherwise, all of the information will likely be public. Do you anticipate any medical information being included? Did you require a background check be included? Did you require tax information to be included (W-2's or tax returns)? Medical information (or records), a criminal background check from TBI or some other national law enforcement agency, tax information and social security numbers are really the only things that I can think of off the top of my head that you would need to review and possibly redact or not make available to the public at all.</p>
<p>County attorney called with a number of different open meetings questions.</p> <p>Thank you for your quick and concise response. I read with interest your statement that I made a good faith argument based that T.C.A. § 5-5-105 only applies to special called meetings of the County legislative body however you thought that under a totality of circumstances a court could hold differently. I never want to provide bad information and I try and give conservative opinions. I try and remain open to other individual's opinions. I especially enjoy seeing someone's thought process. Therefore I am curious as to how you see an argument being made that under the totality of the circumstances T.C.A. §5-5-105 could apply to the Maury County Ad Hoc Rules Committee (Rules Committee). It may be helpful if I give you some additional information concerning this committee. I do not know how much you know about the Rules Committee. The Rules Committee was appointed by resolution of the Maury County Commission. It consists of nine members. Five members are County Commissioners (the chairpersons of each of the County Commission committees), three elected officials, (County Mayor, County Trustee and County Clerk) and one department head. (I was originally appointed but because of several individuals desiring to have input into the rules process, I thought it better that I step away from the committee so that I could better give an objective opinion as to the rules that are being submitted to the entire commission. ) The resolution required the Rules Committee to submit its report to the Administration Committee which is a Committee that meets regularly and consists entirely of the County Commissioners. I thought it might be helpful if I shared with you my thought process in reaching my opinion. My review of T.C.A. § 5-5-105 is</p>		<p>We discussed how Tenn. Code Ann. Section 8-44-109 works practically, who has implemented the Internet chat, and the fact that only local governments have the right to utilize it.</p> <p>As I said in my previous email, I think that the argument that you presented is a sound, good faith, and logical argument. However, I have been involved in and followed a number of open meetings and public records cases during my time in this office. When the opinions came out in a couple of these cases, they did not at all say what I anticipated. So, I am always cognizant of the fact that courts can hold as they please on issues, even if the holdings do not appear to follow established precedent.</p>

Question	Issue	Resolution
<p>Thank you for coming to Columbia last week and making a presentation to the Maury County TEA Party. You did an excellent job of answering questions and providing information for all in attendance. I had sent out a notice of the meeting to our commissioners and we had seven in attendance. I need your guidance in determining how to legally advise our commissioners as to the rules that would regulate their attendance at a "town hall meeting". Mrs. Stickel, the TEA Party president, asked if commissioners could attend such a meeting and answer and discuss questions and ideas that might be brought up. I heard you say yes but there were people close to me who were talking and I couldn't hear all you said. If the commissioners agree to attend such a function, I'm sure they will want to be obeying the rules and guidelines of the open meetings act. Please send me the info you have on such or the references that I can refer to. Jim Bailey Maury County Mayor Ps I assume that such a meeting would have to be organized totally independent of the county government, and the commissioners would attend as citizens but this is one of the many questions I know you can help me with.</p>		<p><b>Resolution</b> The Commissioners are free to attend and participate in a town hall meeting. However, they should not deliberate towards a decision on any issue that is currently pending before the commission or may come before the commission in the future. If they want to provide their constituents facts about issues that they have worked on that have already been resolved by the commission, that is permitted. If they want to answer questions from constituents that require them to provide facts (not opinions on how they would do something or how they fell about an issue, particularly if that issue is one that has the potential of coming before the commission or is currently pending before the commission), that is fine as well. However, if they begin discussing an issue that is before or is likely to come before the county commission for consideration, that would likely trigger the open meetings act and result in a violation. I have attached for your consideration with your attorney the link to a case that provides a very thorough explanation of what the court does and does not consider to be "deliberations."</p> <p><a href="http://scholar.google.com/scholar_case?case=16558852478029586046&amp;q=johnston+v.metro+nashville+&amp;hl=en&amp;as_sdt=2_A3">http://scholar.google.com/scholar_case?case=16558852478029586046&amp;q=johnston+v.metro+nashville+&amp;hl=en&amp;as_sdt=2_A3</a>. Providing information based in facts and not opinion or conjecture does not trigger the open meetings act and that would be what the commissioners would be limited to during a town hall meeting. They would not be allowed to discuss an issue and use that forum to try to persuade one another to take one side or another on the issue when it is pending our could potentially be brought before the commission. Please let me know if you have any additional questions.</p>
<p>Do citizens have the right to speak at public meetings?</p> <p>Can the interviews to fill an open council seat be done privately when the entire Council is taking part in the interviews ?</p>		<p>The interviews will have to be done publically pursuant to an AG opinion.</p>
<p>Do the county meetings of the democratic party have to be open to the public and noticed?</p>		<p>Please see the attached website. You can pull the statutory provisions related to the political parties. The provisions that you want to look at are Tenn. Code Ann. Section 2-13-101 and following. <a href="http://www.lexisnexis.com/hottopics/tncode/">http://www.lexisnexis.com/hottopics/tncode/</a>. Once this page opens, click on "I agree" and then you will click on the "" beside Title 2 Elections and then you will click on the "" beside Political Parties and Primaries. You will find that while state primary boards are required to hold public meetings, the statute does not contain the same requirement for county primary boards. Please let me know if you have any additional questions.</p>
<p>Does you office have any type of information or guidelines it can provide to a citizen of Tennessee to go by - in filing a Chancery Court action for a violation of the Tennessee Open Meeting Act?</p>		<p>No, we do not have any template material for filing a lawsuit. You may want to contact ACOG and ask if they have any information or go to the court clerk in a county where a lawsuit has been filed and obtain copies of the proceedings in the open meetings lawsuit.</p>

Question	Issue	Resolution
<p>As access to the Internet becomes more and more widely available, I am curious how that will affect the definition and interpretation of "adequate public notice" in Tennessee, as far as publicizing meetings is concerned. As it stands, is it necessarily mandatory that public notices actually be printed in a newspaper? It would seem that it is a matter of time before municipalities can simply post notices to their websites, Facebook pages, etc., on upcoming meetings, plans, ballots, and other such useful public information, and direct interested residents there for updates, rather than spend so much taxpayer money on printing public notices crammed in the back of a newspapers' classifieds section, that reaches only a small percentage of the populace to begin with. I apologize if this sounds vague; I am trying to learn more about the issue, and definition. Any feedback would be appreciated. Thanks for your time.</p>		<p>Only in certain scenarios are governmental entities required to publish notice in a newspaper and that is all set out in statute.</p>
<p>A regularly scheduled meeting of the Cannon County Commission is being held on Saturday. There is no agenda posted. Is that allowed?</p>		<p>There is no provision in the Act that requires an agenda to be published. We did discuss the recent case out of federal court that said that when issues of significant importance to the community comes up, that issue needs to be posted but we also discussed the other cases. I looked specifically at the statutes related to tax and public hearing and occupancy tax and there is not requirement for any special notice or hearing.</p>
<p>I have a county election commission meeting starting and a person is requesting to call into the meeting. I do not think they have to allow that but I want to be sure before I say it is ok to tell the person they have to be there in person.</p>		<p>No, there is nothing that gives a citizen the right to call in and listen to a meeting. However, the individual would have a right to minutes or any recordings made of the meeting.</p>
	<p>The City Commission had an opening and placed a notice in the meeting for a special called meeting and said that each candidate would be introduced, interviewed, and then the Commission would discuss and make a decision on who to choose. The Commission did no interview, instead, each candidate was discussed by number and then a decision was made. Is it a violation that they did not do exactly what was in the notice? Are the records that they were looking at and the notes that the Commission took during the meeting public records?</p>	<p>I do not think that it is a violation, but not doing everything in a notice for a special called meeting is not an issue that has been addressed in Tennessee. Also, yes, to the extent that the records/notes are maintained and they relate to Commission business, they are public record</p>
<p>When can the school board go into executive session?</p>		<p>We discussed the audit committee statutes and when those are applicable and we also discussed the fact that the Board can go into executive session with its attorney to discuss threatened or pending litigation subject to certain parameters.</p>

Question	Issue	Resolution
<p>My name is Melville Bailey. I am county mayor in Hawkins County. You visited our county last July 12 to discuss the Open Meetings law. I am facing two issues that I have been asked to get a ruling as to whether the open meetings act has been breached. (1) A 5th district commissioner requested for me to form an insurance committee ( dealing with employee health insurance) a couple of months ago. I asked him to wait until we could get a better bearing on the health insurance issue on the national level, as well as, at the county level. He has decided to deliberate and discuss the formation and members making up a health insurance committee with a 2nd district commissioner and a 3rd district commissioner to submit a resolution to the full commission Monday, January 28th at 9:00a.m. The 5th district commissioner has written a resolution, requesting the formation of an insurance committee and placing himself as a member of the insurance committee, and he has discussed ( the formation of the insurance committee along with who the other committee members will be) with the 2nd district commissioner as to the formation of the committee . The 2nd district commissioner has agreed to sponsor the resolution and a 3rd district commissioner to cosponsor the resolution. I feel that these 3 commissioners have or are trying to circumvent the open meetings law. It is my contention that the public and county employees have the right to know of the proposed formation of this committee since it could directly deal with the public as well as insured employees. I would appreciate your opinion. (2) Our county clerk ,along with other elected county officials ( including myself on occasion) have been meeting to discuss and decide various issues as to the use of Please see the accompanying request regarding a matter involving the City of Milan.</p>		<p>Resolution</p> <p>1. Based upon our conversation, it is my understanding that multiple members of the County Commission met and decided that this committee needed to be formed and then worked on the resolution together outside of a public meeting. It is also my understanding that part of the resolution pertains to who it is that the Commissioners want to serve on the committee. I am of the opinion that anytime multiple members of a governing body meet and make decisions related to government business, that meeting has to occur in public and the public has to be provided notice of the meeting and have the opportunity to attend. As such, I am also of the opinion that the Commission as a whole needs to discuss the formation of this committee and there needs to be a discussion of who the members of the committee will be in an adequately noticed public meeting. If one member comes up with a resolution on his/her own and presents it, I do not think that triggers the open meetings act, but when multiple members work on a resolution together, I think that does. Please see the attached case that somewhat addresses this issue.  <a href="http://scholar.google.com/scholar_case?case=16558852478029586046&amp;q=johnston+v.+metro-nashville&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=16558852478029586046&amp;q=johnston+v.+metro-nashville&amp;hl=en&amp;as_sdt=2,43</a> 2. Given the fact that each of the individuals who participate in this meeting have control over his/her own office and given the fact that the group cannot make a decision that is binding on any other office and based upon the fact that this group does not have its genesis in any action of the county commission, I do not think that the group is subject to the public records act. However, I think that it would be good to notice the</p> <p>I began to research the issue that you all presented over the weekend. I have a number of questions that were not addressed in the information that was presented. If possible, I would like for us to get on a conference call tomorrow to discuss some of my questions and requests or if it is more efficient for you all to address these questions and requests via email, I am amenable to that as well. Specifically, I am interested in obtaining copies of the initial letter that was sent by the City (I am assuming that it was sent prior to October 2012), the response that was sent by Mr. Harvey in October 2012, the letter that was sent by the City on November 2, 2012, and response to that letter that may have been sent (no response is referenced in the correspondence I was sent), and the January 14, 2013 letter sent by Mr. Harvey. I think that the majority of my questions will be addressed after my review of the written correspondence referenced in the letters sent to me. I am also interested in knowing whether or not the litigation hold that was requested by Mr. Harvey in October 2012 has been rescinded and if it has, when it was rescinded. If you all want to have a conference call let me know and I will work on finding some time that is good for everyone, otherwise, I look forward to receiving the information requested via email.</p>

Question	Issue	Resolution
<p>As we discussed, the Doe Mountain Recreation Authority (DMRA) held a regularly scheduled public meeting on January 22, 2013. Attached is a list of legal issues and questions that were identified at the meeting. I understand that you have spoken with the State's Attorney General Office. Please feel free to forward this note to your contact in the AG's office. Thank you so much for your help. I suspect that you will be able to give us some advice on the work of our committees (Issue #8 on the attachment). The committees that we envision include 1) Administration, 2) Master Planning, 3) Roads, Trails and User Groups, 4) Marketing and Outreach, 5) Adventure Tourism District and Business Development, 6) and Natural Resources. The committees are comprised of Board members and interested citizens. The plan is for these committees to develop work products and proposals for the DMRA to consider and act (amend, vote, etc.) on at the regularly scheduled public meetings of the Board. Our question is this. As these committees prepare their work products, can the committee members meet, participate in phone calls, communicate in emails and develop draft proposals without being subject to the Sunshine Law? If you would like to discuss this question or any of the issues, please feel free to call me at 423.229.6677.</p>		<p>In my opinion, any committee meetings are required to be adequately noticed and open to the public. Because the committees were created by the Authority as a whole and because the committees will be making recommendations to and/or decisions for the entire Authority, I believe that the committees are subject to the open meetings act and as such, they are required to operate in accordance with the open meetings act. In light of the language that created the Authority, I do not believe that the members of the Authority or any of its committees have the ability to participate in meetings through electronic means.</p>
	<p>Can the county commission caucuses meet and discuss the various issues related to that caucus outside of a public meeting?</p>	<p>No, because each caucus contains multiple members of the county commission and they will be deliberating towards issues that are before the entire commission. However if each caucus wants to have an informational session where they only receive information, that does not trigger the act, but if they deliberate it does and then there will be a violation.</p>
	<p>Reference: (1) Email below from Heather Leach (2) Attachment: "SunshineLawExcerpts.pdf" (3) Attachment: "Opinion-TNAttyGenOpenMtgNotices.pdf" (4) Attachment: "2013-02-04 CountyCommissionGreenbeltSessionFor02-05-13.pdf" Please be advised that the Unicoi County Commission workgroup scheduled for today, February 5, 2013, at 3:00 p.m. at the court house violates the requirements of the Tennessee Sunshine Law for the following reasons: 1. Notice of the meeting to the public was published only 24 hours in advance (See Leach email below and Reference attachment Item (4) above.), which is inadequate notice to the public. (See Reference attachment Item (2)</p>	<p>I called the County Mayor and we discussed the scheduled meeting and the meeting was canceled after our discussion.</p>

Question	Issue	Resolution
	Received the email from Mr. Day and I called him to discuss the issues that are set out in the email.	Thank you for taking the time to speak with me this morning. As we discussed, if a work session is going to include deliberations and/or decision making by the members of the Commission, the work session is a meeting and has to be noticed just like any other meeting. I think that absent exigent circumstances, the meeting needs to be noticed between 5 and 7 days in advance of the meeting. Additionally, while I understand that you all send notice to the local newspaper, I also think that you need to post notices around town in as many public places as possible, especially if you are not paying to run a notice because there is no guarantee that the notice will make it into the newspaper. Because the work sessions are not regularly scheduled, the notice that you prepare for them have to include all of the issues that you all intend to discuss at the meeting, just like with any special called meeting. Only those issues that are in the notice can be discussed during the work session. I think that this addresses everything that we discussed, but let me know if I missed something or if you have additional questions.
	The school board director wants to discuss issues that are not part of the agenda for the special called meeting. Is that permissible?	In my opinion no; look at the case law in Englewood and the some of the other open meetings cases.
I've been assigned a story about the Unicoi County Commission canceling their work session today in lieu of the story I was going to produce based on the county's discussions at that meeting. I'd like to request a statement from your office regarding the Sunshine Law requirements that the Unicoi County Commission will be adhering to after Mr. John Day's inquiry. I'd also like to get some comments from your office regarding what the issues were with the work session that was planned for today. Also, what steps did the Unicoi County Mayor Greg Lynch take to correct the situation? I am a reporter for The Erwin Record. Thank you for your time. I look forward to your response.		Spoke with her about the fact that there was no violation because the Commission did not meet and we also spoke about the manner in the Commission should have been noticed its meeting...specific issues to addressed should have been included because it was a special called meeting, at least five (5) days before the meeting, and in a newspaper if one existed in the area and if not, in every public building possible that is in the area.
During a conference call, one of the attorneys asked me to email him cases that deal with the requirement to notice meetings and what the agenda for meetings have to contain.		Please see the attached cases that we discussed during the conference call. Let me know if you want to discuss further. <a href="http://scholar.google.com/scholar_case?case=7367907366088759849&amp;q=long+v,+city+of+cooperstown&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=7367907366088759849&amp;q=long+v,+city+of+cooperstown&amp;hl=en&amp;as_sdt=2,43</a> (agenda) <a href="http://scholar.google.com/scholar_case?case=2640067197608283838&amp;q=neese+v,+paris+special+school+district&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=2640067197608283838&amp;q=neese+v,+paris+special+school+district&amp;hl=en&amp;as_sdt=2,43</a> (notice) <a href="http://scholar.google.com/scholar_case?case=8839799604467472151&amp;q=soude+vv,+health+partners&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=8839799604467472151&amp;q=soude+vv,+health+partners&amp;hl=en&amp;as_sdt=2,43</a> (notice).

Question	Issue	Resolution
<p>Are the advisory committee meetings for the group that works with the Gang Task Force required to be open to the public?</p>		<p>In my opinion No, I spoke with Boyd Patterson (423-425-7835) who is the Coordinator of the Task Force and learned the advisory committee was put in place to advise him in his role. The committee does not make recommendations to the city council nor have they been delegated any authority to make decisions. The members were not appointed by the city council nor do they report to the members. The committee was put in place to advise the Task Force Coordinator and that is what they have been doing. However, Mr. Boyd did say that he is willing to sit down with Mr. Kellogg and wants to work with him, but he is not willing to allow him to interrupt the meetings which is what has occurred in the past. I let Mr. Kellogg know what I had discussed with Mr. Boyd.</p>
<p>County Attorney called with several questions related to public notice.</p>		<p>We discussed all of the issues that he presented. He indicated that Unicoi County publishes notice once a year for all regularly scheduled commission meetings and I told him that I did not think that constituted adequate public notice. I also told him that I suggest 5-7 days (business days) preferably for posting notice of a meeting be it regularly scheduled or special called. We also discussed that for regularly scheduled meetings of the county commission, there is no requirement that the notice be in a newspaper of general circulation, although that is probably the best method because it will likely reach more citizens.</p>
<p>A citizen called with open meetings question regarding Elective Power Board in Chattanooga TN, specifically, when and where are EPB'S notices published.</p>		<p>I emailed Katie King and asked her where notice is published and she told me that the notices are placed in the Hamilton County Herald and they are held every third Friday of each month and the notices are published a week before the meetings.</p>
<p>The matter of posting our Meeting Minutes on our Election Web site was discussed at our January meeting. Commissioner Corey Davenport posed the question "If the minutes could be placed on the web site"? My response was yes and I cited the State and other County Commissions that do so currently. There still seemed to be some question as to the legality. Accordingly I ask.... is there any legal restrictions, prohibitions that would prevent us from posting the minutes on line each month? Are there any strong concerns that might cause us NOT to publish the minutes on our web site?</p>	<p>The Cannon County Election Commission may choose to post its minutes on the election commission website. The minutes from the election commission meetings contain only public information and are themselves public documents. The website, which is a public site, may be used to disseminate this information.</p>	<p>I agree with what Beth has advised. However, if someone makes a request for copies of minutes, you can refer them to the website and ask if that will satisfy the request, but they still have the right to receive hard copies from the Election Commission if that is what they prefer. Also, if an individual requests draft minutes, he/she has the right to obtain those as well, if draft minutes exist.</p>

Can less than a quorum of the members of a governing body meet and deliberate towards public business?

Issue

Resolution

No; I think that both of these cases address the question that you raised earlier today. There are a number of other cases that do not deal specifically with the "quorum" issues but they do address circumvention of the Act through informal assemblages. As I indicated, I am of the belief that anytime two or more members of a governing body meet and deliberate towards a decision or make a decision on public business, the open meetings act is triggered, even if a quorum of the members would constitute more than two. Please let me know if you have other questions. State ex rel. Matthews v. Shelby County Board of Commissioners, 1990 WL 29276 (Tenn. Ct. App. March 21, 1990) State ex rel. Akin v. Town of Kingston Springs, 1993 WL 339305 (Tenn. Ct. App. Sept. 8, 1993).

Can I record the county commission meeting that is scheduled for tonight with my digital camera?

Does the public have a legal right to speak at public meetings held by a government entity such as a county commission meeting? My husband and I have tried to address our county commissioners for the past year and have been denied our request. We have written the county commission chairperson, gone in person, and via phone. What is the law? In Feb. 2012 we had a list of fifty Putnam County real estate property owners who were only paying taxes on vacant land when in fact they had apartments on the properties for several years at a value of \$250,000 to over \$8,000,000 dollars. This was public record. Our water district continues to make customers pay undocumented water bills through duress. Thank you for your input.

The AG opinion that you are looking for is 95-126. I cannot provide you a copy because I only have access to it through a copyrighted database. However, the last paragraph of the opinion reads as follows: Upon reconsideration of Op. Tenn. Atty. Gen. 95-101, this Office is of the opinion that it does not matter whether the Open Meetings Act itself limits the conditions that governing bodies may place upon members of the public who attend their meetings. Under Article I, Section 19 of the Tennessee Constitution, a city council may only regulate access to its public meetings in a manner that reasonably serves public safety and welfare, or its ability to conduct orderly and efficient proceedings. Based on the authorities discussed above, it is the opinion of this Office that these interests would not be deemed sufficient to justify a total ban on video and photographic equipment at city council meetings or on photographing those present at the meeting. The breadth of the proposed total ban goes well beyond that which is reasonably related to the city's legitimate interests. This Office is further of the opinion that city governing bodies may regulate the use of such devices, but only in a manner reasonably calculated to serve the public safety and welfare or the interest in conducting efficient and orderly public meetings. For example, a city council may prevent cameras from being operated in a manner that actually disrupts a council's proceedings, that presents a danger to the public safety, or that otherwise prevents the council from conducting an orderly and efficient meeting. Moreover, a city board would not be required to make special provisions in order to accommodate such devices. According to the case law in Tennessee, a citizen does not have the right to speak at a public meeting (that is not a public hearing) such as a regularly scheduled county commission meeting. The case law says that the public has the right to observe the process, but not participate in it. However, a governing body can put in place procedures to allow for public comment. Please see the attached case that addresses this issue. <http://caselaw.findlaw.com/in-court-of-appeals/1319786.html>

Question	Issue	Resolution
	<p>The Budget committee put an agenda out to the public several days before the meeting and then during the meeting discussed and voted on beginning talks with Train about a contract and that issue was not on the agenda. The issue will be revisited next month at the next meeting. Is that a violation?</p>	<p>I referred him to the case at the attached link and we talked about whether or not this would be an issue of significant public importance and where the case law is with that issue today. Pursuant to our conversation yesterday, here is the link that the case that I referenced when we spoke.  <a href="http://scholar.google.com/scholar_case?case=7367907366088759849&amp;q=city+of+cooperstown&amp;hl=en&amp;as_sdt=2,43">http://scholar.google.com/scholar_case?case=7367907366088759849&amp;q=city+of+cooperstown&amp;hl=en&amp;as_sdt=2,43</a></p>
	<p>Rep. Weaver asked that I draft a provision making certain records related to building security and certain meetings relating to the same confidential.</p>	<p>Per your request that this office provide you technical assistance with drafting a bill that addresses the needs of your constituents, please see the attached.</p>
<p>15 February 2013 Elisha Hodge Open Meeting and Records RE Request to consider my opinion Dear Ms. Hodge I went to the Metro board of health meeting yesterday. They stand by their director. Their Explanation: 1.) 'The Healthy Start' and 'New Beginnings' discuss procedures only--no recommendations to policy makers 2.) Fetal Infant Mortality Review meetings-- discuss specific cases and confidentiality an issue My reaction: 1. Procedures? that seems like code word for policy 2. They should redact ALL personal information 3. Please ask for and get the underlying papers establishing these groups---they must be federally funded or required 4. After the meeting, the chair of the Health Board asked me-- "What do you want to learn? Why are you interested?" This is totally irrelevant 5. The Health director has never answered an e-mail requesting information---they should lose rights by that 6. Now, metro Legal is involved which makes every bodies position in stone 7. I think the bottom line is that health disparities, infant mortality, obesity, smoking and other health factors are very bad in Nashville and Tennessee and they do not want a witness.</p>		<p>I spoke with an attorney at Metro Legal last week regarding your request to attend the meeting. He said that he would look into what exactly the function of each of these committees is and let me know. However, I do think that it is important to note that if these committees do not have the authority to make decisions for or recommendations to a governing body, the committees are not subject to the open meetings act. So, if the committees are task force type entities that were created by the Director and make recommendations to the director, then the meetings are not required to be open to the public. Additionally, if one of the committees reviews cases within the Health Department, but makes no decisions for or recommendations to a governing body, the open meetings act is not triggered. The attorney for Metro confirmed that none of these committees make recommendations to or decisions for a public body.</p>
<p>Does the language in Tenn. Code Ann. Section 68-11-238 require strategic plans that are discussed in executive session, but not adopted to be made public?</p>		<p>In my opinion no, it is only those plans that are adopted and the feasibility studies considered that have to be made public. All other plans considered during executive session appear to remain confidential.</p>
<p>Why can a county commission go into executive session? (Interview)</p>		<p>Discussed the fact that the commission can go into executive session either under the audit committee statutes or to discuss threatened or pending litigation with the county attorney under very narrow parameters.</p>
<p>Does the open meetings act cover use of an IPAD to communicate? Can the emails sent and received from the IPAD be requested?</p>		<p>Yes, the open meetings act covers all communication whether it be in person or electronic (telephone, emails, text messages). The same requirements exist and yes, the emails can be requested through the public records act.</p>

Does the open meetings act prescribe any particular way for approving minutes of a meeting?	Issue	Resolution
The City of Etowah and the Etowah Utility Board has 5 members. If 2 of the members meet and deliberate towards public business, does that violate the open meetings act?		No to my knowledge. However, the Board might want to look at its internal policies to see if there is anything there that deals with the approval of minutes.
During a recent meeting a woman addressed the county commission regarding a county road issue. He son eventually joined her at the microphone and after they were done, they went to each end of the where the Commissioners were sitting and began to speak to the Commissioners. If Commissioners are being addressed at opposite ends of the table by two citizens, is this a violation of the open meetings act? (interview)		In my opinion no, as long as the Commissioners are not deliberating towards or making decisions while being addressed.